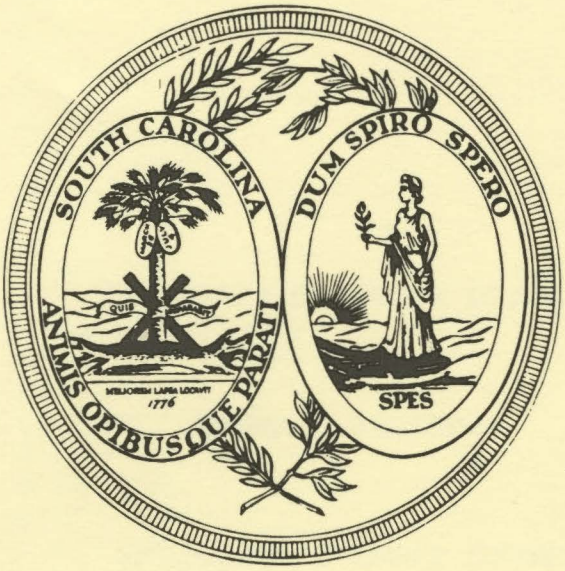
South Carolina General Assembly



Legislative Audit Council

The State of South Carolina
General Assembly
Legislative Audit Council
A Management and Performance
Review of the South Carolina
Department of Health and
Environmental Control
March 18, 1986

THE STATE OF SOUTH CAROLINA

GENERAL ASSEMBLY

LEGISLATIVE AUDIT COUNCIL

A MANAGEMENT AND PERFORMANCE

REVIEW OF THE SOUTH CAROLINA

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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REPORT SUMMARY

The Department of Health and Environmental Control (DHEC) is required by law to serve South Carolina citizens as the authority, guardian and advocate in all matters relating to public health and environmental protection.

During the course of this audit, the Council found that DHEC has not been responsive to some laws, regulations and sound management principles. DHEC needs to be more accountable to the public, and needs to ensure that regulations pertaining to health and environmental programs are strictly, promptly and consistently enforced. Companies that have polluted the environment have not been dealt with strictly and consistently. Regulations pertaining to health facilities have been inadequately enforced. Further, regulations pertaining to restaurants and mobile home parks have not been strictly and promptly enforced in some counties.

The following examples indicate the need for improvements in DHEC's operations.

- Against Department policy, DHEC has allowed toxic wastes which could be disposed of by other means to be buried in a commercial landfill. In 1984, 69% of the landfilled hazardous waste came from out-of-state. DHEC estimates that when the landfill leaks, clean-up costs could exceed $2 billion, a financial burden the State may have to bear (see p. 10).

- Enforcement of radiological health regulations is inadequate. DHEC has not penalized companies for major radioactive materials violations. Also, follow-up on x-ray machine violations is inadequate, possibly causing operators and patients to receive unsafe radiation dosages (see p. 21).

- DHEC has inadequately regulated two companies with a history of pollution. DHEC did little to monitor and deter spills at one company that had at least 11 toxic chemical violations, two of which required evacuations of nearby residents. DHEC allowed the second company to pollute the air since 1982 without taking enforcement action (see p. 53).

- DHEC's Division of Home Health Services competes with the private sector. DHEC provides more than 80% of the home health services in South Carolina and also decides which private and non-profit agencies can compete with DHEC to provide care (see p. 61).

- Enforcement of hospital and nursing home regulations is inadequate. Little action is taken when facilities are found to be violating regulations, which are defined by DHEC as posing an imminent danger to patients (see p. 126).

- DHEC's Bureau of Drug Control has not maintained an inventory of evidence it seized. Confiscated property, such as cocaine and morphine, was stored in desks, file drawers, car trunks and agents' homes. The Audit Council also found that sanctions imposed upon pharmacies and other registrants for controlled drug discrepancies have been inconsistent (see p. 81).

In addition, the DHEC Board has made some questionable decisions. For example, the Board allowed six medical students who received a DHEC scholarship by contracting to serve rural communities to practice in urban locations without repaying the scholarships as required by law.

Further, DHEC could collect an additional $4 million by charging some users of its services a fee. Funds used to computerize certain sections within the agency could have been better spent. The agency has bought computer software and word processing machines that have not been used. DHEC began computerizing its laboratory without properly planning or documenting what needed to be computerized, resulting in a need to redo approximately 35% of the work.

The Audit Council found that DHEC has performed well in administrative areas. For example, the agency's budgeting process consistently places programs in priority order and allocates resources accordingly. DHEC's minority business enterprise program has served as a model for other State agencies. Also, in Environmental Sanitation, efforts of the staff have improved the sanitation of restaurants significantly.

The following chapters discuss problems and some noteworthy areas found at the Department of Health and Environmental Control. The terms Department of Health and Environmental Control, DHEC and Department are used interchangeably throughout the report. A glossary of legal and technical terms used in this report is presented as Appendix D, on page 167.

RECOMMENDATION

THE DHEC COMMISSIONER SHOULD ENSURE AGENCY MANAGEMENT AND ENFORCEMENT DEFICIENCIES ARE CORRECTED. A PROGRESS REPORT CONCERNING CORRECTIVE ACTION SHOULD BE MADE TO THE GENERAL ASSEMBLY WITHIN ONE YEAR.

CHAPTER I

HISTORY AND ORGANIZATION

Introduction

Public health is one of the oldest government services in South Carolina. In 1690, a law was passed requiring ship captains entering the port of Charleston to assure the good health of everyone on board. Today, the Department of Health and Environmental Control (DHEC) has more than 4,000 authorized positions and an annual budget of more than $187 million. DHEC's mission, according to its Manual of Administrative Policy, is to serve as the authority, guardian and advocate of the people of South Carolina in all matters relating to public health and environmental protection.

History

The first full-time public health worker in South Carolina, the State Health Officer, was provided for in 1908. By 1936, every county was receiving at least partial services of a health officer. In 1933, the first health district was formed of Dillon and Marion Counties and by 1936, 27 counties were included in multi-county districts.

In 1969, at the request of the State Board of Health, the General Assembly appropriated funds to provide for the creation and staffing of 13 reorganized public health districts. By 1973, all of the districts had the basic

supervisory staff in nursing, sanitation and administration. Other health professionals, such as medical social workers, health educators and nutritionists, also began to join district staffs at this time. By 1981, the Pee Dee and Midlands Districts were divided into four separate health districts, bringing the total to 15.

The Pollution Control Authority (PCA), established within the State Board of Health in 1950, became a separate State agency in 1971. The PCA and the State Board of Health merged in 1973 to form the Department of Health and Environmental Control.

Organization and Function

The South Carolina Department of Health and Environmental Control is one of the State's largest agencies. The Department is organized into the State administrative offices, located in Columbia, 15 health districts, 12 environmental quality control districts and health departments in each of the State's 46 counties.

A commissioner is chosen by the DHEC Board to direct the agency and serve as the State's health officer. Four deputy commissioners direct the areas of Administration, Environmental Quality Control, Health Protection, and Health Facilities and Services Regulations. Most direct services are provided at the county or district level with support from the State offices.

Environment Quality Control (EQC) protects the public and the environment from the hazards of air and water pollution and waste disposal. The major divisions of EQC are: Solid and Hazardous Wastes Management, Radiological Health, Water Pollution Control, Air Quality Control and Analytical and Biological Services, and Water Supply and Special Programs.

DHEC's Deputy Commissioner for Health Protection oversees personal health programs that serve the citizens of South Carolina. These services delve into many medical areas, focusing on preventive health services. The district concept provides for decentralized program supervision by district medical directors and nursing directors. Programs such as Maternal and Child Health, Family Planning, Home Health Services, Communicable Disease Control and Environmental Sanitation are provided at the district and county level.

The Division of Health Facilities and Services Regulations is responsible for projecting the need for health services and authorizes "certificates of need" for health facility building or expansion. In addition, plans for hospitals and nursing homes are reviewed to ensure that they meet State, federal and DHEC standards. DHEC also issues licenses for hospitals, nursing homes and hearing aid dealers and conducts yearly safety and health care standard inspections on each facility.

DHEC Board Membership

The seven members of the Board of Health and Environmental Control are appointed by the Governor, upon the advice and consent of the Senate. Each Congressional District is represented and one member is chosen at large. The members serve four-year terms and until their successors are appointed and qualify. A chairman and other officers are elected annually by the Board from its membership.

TABLE 1

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

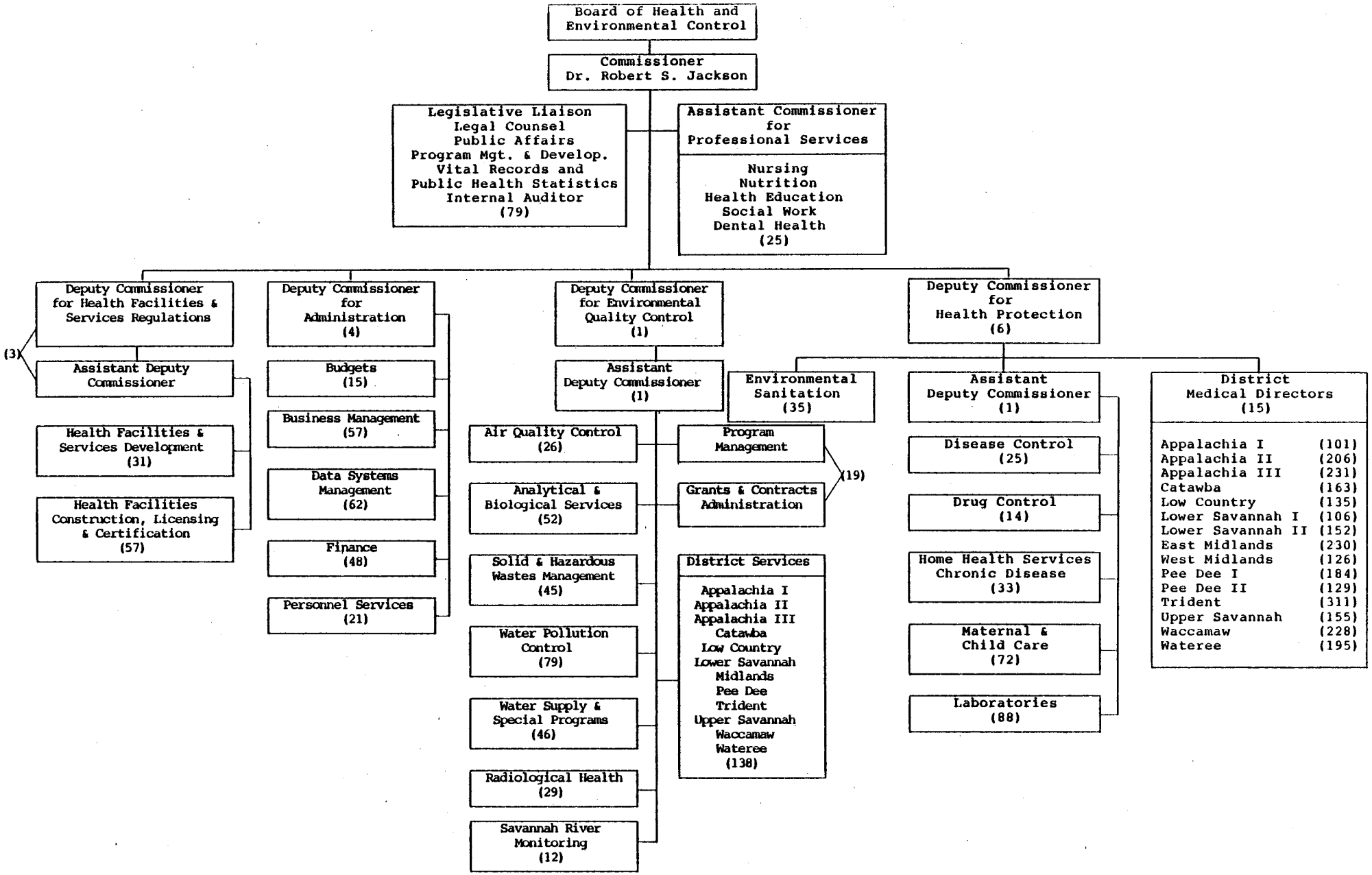
SOURCE OF REVENUES AND EXPENDITURES

Revenues	FY 80-81	FY 81-82	FY 82-83	FY 83-84	FY 84-85[1]	FY 85-86[2]
State General Fund	$ 47,195,354	$ 53,429,433	$ 54,113,430	$ 58,398,307	$ 67,461,100	$ 70,205,764
Federal Funds	40,373,027	45,213,480	45,960,445	53,642,804	66,262,473	NA[3]
Other Funds	19,254,092	16,145,440	18,385,115	22,647,441	33,679,680	NA[3]
TOTAL Revenues	$106,822,473	$114,788,353	$118,458,990	$134,688,552	$167,403,253	$187,108,308
Expenditures						
Administration	$ 7,550,059	$ 7,846,328	$ 8,753,677	$ 9,742,825	$ 12,237,797	$ 12,298,828
Health Protection	79,198,741	84,908,079	87,131,363	98,123,371	118,376,598	134,745,850
Health Planning and Health Facility Regulation	2,285,197	2,264,904	1,852,449	3,104,316	5,592,732	4,397,851
Environmental Quality Control	9,430,221	10,266,670	10,814,859	12,455,391	15,329,772	15,718,138
Employee Benefits	8,358,255	9,502,372	9,906,642	11,262,649	14,778,360	19,937,641
Non-Recurring Appropriation	-	-	-	-	1,087,994	10,000
TOTAL Expenditures	$106,822,473	$114,788,353	$118,458,990	$134,688,552	$167,403,253	$187,108,308
TOTAL Personnel	3,983.76	3,871.58	3,843.99	3,703.34	4,073.90	4,209.20

[1] FY 84-85 figures are estimated total funds from the South Carolina State Budget for FY 85-86.
[2] FY 85-86 figures are appropriated funds from the General Appropriation Act 1985-86, State of South Carolina.
[3] Information not available as of September 1, 1985.

Sources: South Carolina State Budgets, State Budget and Control Board and General Appropriation Act 1985-86, Legislative Council of South Carolina.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL



Source: Director of Personnel, Department of Health and Environmental Control

CHAPTER II

ENVIRONMENTAL QUALITY CONTROL

Environmental Quality Control (EQC) is responsible for protecting the public and environment from the hazards of air and water pollution and waste disposal. Major divisions include Solid and Hazardous Wastes Management, Radiological Health, Water Pollution Control, Air Quality Control and Water Supply and Special Programs.

Bureau of Solid and Hazardous Wastes Management

The Bureau is responsible for regulating the storage, transportation, treatment and disposal of hazardous wastes. The following problems were found.

Land Burial of Hazardous Wastes

The Department of Health and Environmental Control permits toxic wastes to be buried in a commercial landfill, even though the wastes could be disposed of through incineration, chemical treatment or recycling. DHEC stated to the General Assembly that their policy allows DHEC to reject wastes that can be disposed of by other means. However, DHEC has done little to decrease the amount of toxic waste buried at the landfill and has not proposed regulations prohibiting the burial of wastes that could be disposed of by alternative methods. Burial of toxic and

hazardous wastes is the least desirable form of disposal because, as the United States Environmental Protection Agency (EPA) has stated, all landfills will eventually leak and contaminate the groundwater beneath them. On the other hand, alternative forms of disposal either destroy the waste or reduce the hazard level of the waste.

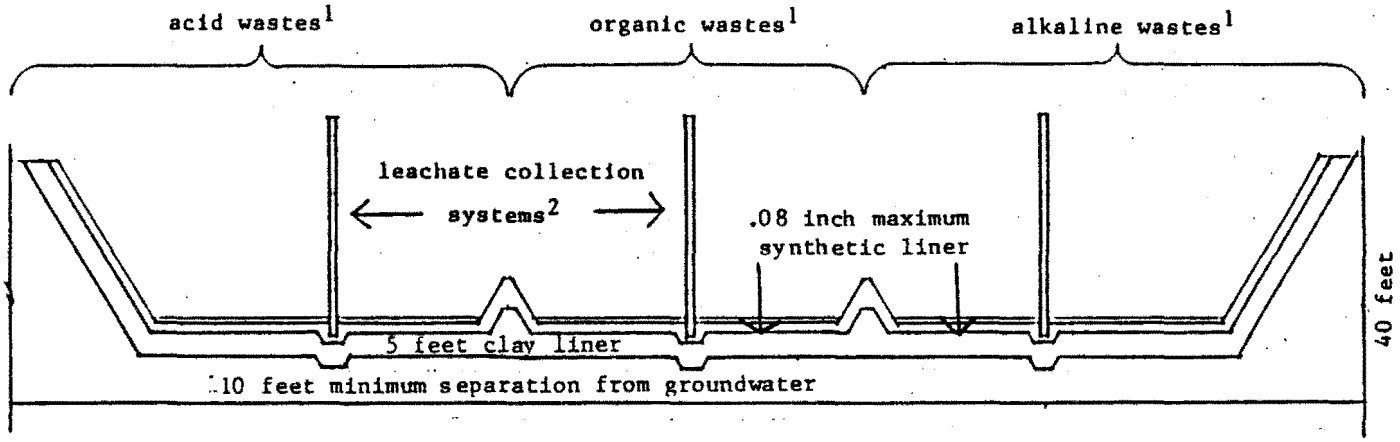
The landfill, begun in 1977, is one of two hazardous waste landfills in the Southeast. DHEC has permitted 101 acres for burial. From 1978 through March 1985, over 1.1 billion pounds of waste were buried at the site, including arsenic, barium, cadmium, chromium, cyanide, lead, mercury and selenium. **In 1984, 69% of the waste came from out-of-state, with contributions from 21 states, the District of Columbia, and one territory.**

The landfill is lined with .08 inch of synthetic liner and a minimum of five feet of compacted clay (see Diagram 1). The liners are designed to prevent "leachate," which percolates through the pit, from leaking into the groundwater. Leachate is the liquid resulting from the interaction of rainwater and hazardous wastes in each pit. A minimum of ten feet of opal claystone, an absorbent material used as kitty litter, separates the clay liner from the groundwater.

DIAGRAM 1

CROSS-SECTION OF HAZARDOUS WASTE LANDFILL

AS OF APRIL 1985[3]



1. Incompatible wastes are separated; therefore, each pit is divided into three sections: acids, organics and alkalines.
2. The leachate collection system pumps leachate out of the pit so that it can be solidified.
3. Since May 8, 1985, every landfill pit has been constructed with a double liner system consisting of (from top layer to bottom): synthetic liner, clay liner, leachate detection system, synthetic liner and clay liner.

Source: Audit Council, based on information from DHEC Bureau of Solid and Hazardous Wastes.

Liners not Adequate

Strong evidence shows, however, that neither clay nor synthetic liners prevents leakage over time. In 1981, EPA stated in the Federal Register "disposing hazardous wastes in or on the land inevitabl[y] results in the release of hazardous constituents to the environment." Questioning the effectiveness of clay and synthetic liners, EPA stated "clay soils that might be used for liners or covers are not impermeable." EPA also stated that synthetic liners:

> ...are subject to eventual deterioration, and although this might not occur for 10, 20 or more years, it eventually occurs and, when it does, leachate will migrate out of the facility.

A 1980 United States General Accounting Office (GAO) report found that in comparison to other forms of hazardous waste disposal, "[d]isposal on the land...presents the greatest potential risk for surface and ground water contamination and liability for damages." The Federal Office of Technology Assessment in 1983 reported that all liner materials (clay and synthetic) are subject to breaches in their physical integrity.

In September 1984, an engineer at the New Jersey Institute of Technology, after studying clay liners, concluded that their use is a "long-term public health hazard" and that clay liners are "likely to fail eventually." Also in a 1984 EPA-sponsored study, an environmental research laboratory that tests synthetic liners for compatibility with wastes found that all synthetic liners are permeable to some extent.

Groundwater Contamination

Since, as EPA has stated, the landfill will eventually leak, the groundwater may become contaminated. Contamination of Lake Marion, located less than 500 feet from the site, is also possible. Groundwater contamination can be costly, in terms of its potential health effects, clean-up costs and economic losses to owners of damaged land.

In April 1985, the South Carolina Medical Association adopted a resolution opposing further operation of the toxic

waste landfill. The Association stated the landfill "poses a serious potential danger to the health and well-being of our citizens."

The following table lists some of the health effects of exposure to some of the chemicals present in the landfill.

TABLE 2

EFFECTS OF EXPOSURE TO CERTAIN CHEMICALS

Chemical	Health Effects
Arsenic	brain damage nervous system damage skin lesions birth defects
Cadmium	kidney damage hypertension
Chromium	hemorrhages of the gastrointestinal tract
Lead	brain damage bone damage
Mercury	brain damage genetic damage
Selenium	eye damage lung damage heart damage

Furthermore, EPA stated in 1981 that:

> ...the health and environmental effects of most hazardous waste constituents are not always well understood, and... effects of combinations of the constituents are even less well understood.

Also, many highly toxic chemicals can be present at concentrations not readily detectable by methods available today. According to an environmental engineering professor at the New Jersey Institute of Technology, "this leads to

situations in which water could be consumed for long periods of time without anyone knowing it was contaminated with hazardous waste."

EPA has stated that it "is extremely difficult, often impossible, to clean up an aquifer once it has been contaminated." DHEC estimated that if clean-up of the landfill site and contaminated groundwater was necessary, the cost, as of September 1985, would be nearly $833 million. DHEC projected clean-up costs after the site reaches full capacity could be as high as $2.1 billion.

Although land disposal is generally the least expensive form of disposing of hazardous wastes, its true costs are not represented by disposal fees alone. The inevitability of the landfill leaking, and consequent contamination of groundwater, raise landfill costs significantly, costs which most likely will be borne by the State.

The solution, then, includes minimizing the amount of landfilled hazardous wastes. In 1981, the California Governor's Office of Appropriate Technology estimated that, with only a minimal effect on industry, 80% of hazardous wastes landfilled in California could be feasibly disposed of by other means, such as incineration, treatment and recycling. However, there is no reliable estimate of the amount or proportion of hazardous waste which could be diverted from the South Carolina landfill and disposed of by alternative means.

DHEC Policy not Followed

Since 1977, DHEC policy has been "any wastes considered for disposal must be wastes for which land disposal represents the current best practical disposal technology." The Department may disapprove a waste to be landfilled if other viable means of treatment or reuse are available. However, the Department has done little to follow this policy. A Department official explained that DHEC does not have the time nor resources to determine which wastes could be disposed of by alternative means. He also stated that DHEC regulations do not require the Department to restrict the types of wastes that can be landfilled, and he did not think it was DHEC's responsibility to initiate such regulations.

The Department's enabling legislation requires it to be the "sole advisor of the State in all questions involving the protection of the public health" (§44-1-110 of the South Carolina Code of Laws). DHEC must also:

> ...promulgate such regulations, procedures or standards as may be necessary to protect the health and safety of the public, the health of living organisms and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes (§44-56-30).

Restrict Landfilled Wastes

In January 1983, the State of California enacted regulations which phase out the land burial of five

categories of hazardous wastes. Other wastes are being added to the list in an ongoing process to identify those hazardous wastes that are least appropriate for land burial. These regulations go beyond EPA restrictions on landfilling wastes. The State of North Carolina, which has no commercial hazardous waste landfills, prohibits any future commercial landfills from accepting wastes which can be disposed of by other means, such as recycling, reduction and detoxification.

In June 1985, the South Carolina General Assembly enacted legislation which stated:

> ...land filling is the least desirable method of disposing of hazardous waste because of its eternal potential for harm to public health and safety.

In regulating the disposal of hazardous wastes that will remain potentially dangerous for many thousands of years, DHEC has a responsibility to protect future generations as well as the present generation. DHEC has shown little initiative and has not followed its policy to reduce landfilled waste. The consequences of this inaction could be costly to the State, both in terms of clean-up costs and health effects.

RECOMMENDATION

THE BUREAU OF SOLID AND HAZARDOUS WASTES MANAGEMENT SHOULD DETERMINE WHICH TYPES OF WASTE ACCEPTED AT THE COMMERCIAL LANDFILL CAN BE DISPOSED OF BY

ALTERNATIVE MEANS. THE DEPARTMENT SHOULD PROPOSE REGULATIONS RESTRICTING THE TYPES OF WASTES ACCEPTED TO THOSE FOR WHICH NO ALTERNATIVE MEANS OF DISPOSAL EXIST.

Unannounced Audits at Hazardous Waste Landfill Needed

DHEC does not conduct on-site unannounced audits of its inspectors at the State's only commercial hazardous waste landfill. The two DHEC inspectors, one full-time and one part-time, examine waste shipments to ensure that the shipments' amounts and contents have been authorized. The inspectors sample the contents of the shipments and oversee the laboratory analyses of the waste samples as they are delivered. Without unannounced audits, DHEC does not have adequate "checks and balances" to ensure the landfill is properly monitored.

Another DHEC program conducts unannounced audits of employees responsible for regulating industries. The Bureau of Environmental Sanitation conducts unannounced audits of restaurant inspections to ensure accuracy and consistency of the inspectors' reports. These reviews help to ensure inspectors are following State regulations pertaining to inspections and help to point out program deficiencies.

Without unannounced audits, DHEC has not implemented a standard control measure designed to protect program integrity. Certain dangerous chemicals, such as PCBs,

dioxin and radioactive materials, are prohibited from burial at the landfill. DHEC is directly responsible for ensuring that prohibited materials are, in fact, excluded from burial in South Carolina.

RECOMMENDATION

THE BUREAU OF SOLID AND HAZARDOUS WASTES MANAGEMENT SHOULD CONDUCT PERIODIC ON-SITE UNANNOUNCED AUDITS OF THE INSPECTORS AT THE COMMERCIAL HAZARDOUS WASTE LANDFILL.

Hazardous Waste Enforcement Actions not Timely

The Bureau of Solid and Hazardous Wastes Management has not issued Administrative Orders within 90 days of reported violations in the majority of high priority enforcement cases the Bureau has handled. From June 1984 through March 1985, 23 (70%) of 31 high priority violators did not receive orders within the required 90 days. One federal facility had violations dating back to 1977, including 23 spills of toxic wastes. As of July 1985, no order or fine had been issued.

Beginning in June 1984, Bureau policy has required facilities with the most severe, or "high priority," violations to be issued Administrative Orders within 90 days of discovery of the violations. In September 1984, DHEC

signed an agreement with EPA in which DHEC agreed to issue orders to all high priority violators within 90 days.

As stated in its enforcement policy, the Bureau's "enforcement philosophy is to expeditiously and equitably enforce state and federal hazardous waste statutes and regulations..." The Bureau is neither expedient nor equitable when it does not issue orders to all violators within 90 days. Also, because the Bureau is not meeting the conditions of its agreement with EPA, DHEC could lose approximately $770,000 in federal funding for the hazardous waste program.

RECOMMENDATION

THE BUREAU OF SOLID AND HAZARDOUS WASTES MANAGEMENT SHOULD ISSUE ADMINISTRATIVE ORDERS WITHIN 90 DAYS OF THE DISCOVERY OF THE VIOLATIONS.

Bureau of Radiological Health

The Bureau of Radiological Health is responsible for protecting the public from unnecessary exposure to radiation. The Bureau regulates and inspects x-ray machines and radioactive materials users. The Bureau also regulates the transportation of low-level radioactive wastes in the State. Through its Environmental Surveillance Program, the Bureau monitors for radiation around nuclear plants.

Inspections not Performed

The Division of Electronic Products has not inspected x-ray machines as recommended by DHEC policy and by a United States Department of Health and Human Services (HHS) publication. As a result, x-ray machine operators and hospital patients may be receiving unsafe radiation dosages.

DHEC policy and an HHS publication both recommend that x-ray units in hospitals be inspected annually. DHEC policy also recommends that dental x-ray machines be inspected every three years and all other x-ray units be inspected every two years. Further, DHEC should conduct follow-up inspections within 30 days of notification from the deficient facility that corrections have been made.

The following conditions were noted.

- The highest priority facilities are medical hospitals; 25 (29%) of 87 had not been inspected within the past year, 18 (21%) had not been inspected within the past two years, and 10 (11%) had not been inspected within the past three years.
- DHEC made 832 (36%) of 2,293 recommended inspections of x-ray equipment in hospitals, dental offices and other facilities in FY 84-85.
- Follow-up inspections on x-ray facilities with deficiencies were not made within the recommended time frame in 16 (80%) of 20 cases sampled.

The Audit Council reviewed the inspection records of 18 (21%) of the State's 87 medical hospitals. Sixteen (89%) of the 18 had not been inspected within the last year as recommended by HHS and DHEC. Further, 95 (38%) of 248 x-ray units in these hospitals were found to have operating deficiencies at the time of the most recent inspection.

Operating deficiencies included excess radiation exposure, scattered radiation and malfunctioning timers.

In one hospital, 13 of 17 x-ray machines were not operating properly during a May 1981 inspection; but from May 1981 through October 1985, the hospital had not received a full inspection. Table 3 shows the inspection history of eight hospitals with the highest proportion of deficient units.

TABLE 3

DHEC RADIOLOGICAL INSPECTION HISTORY OF EIGHT HOSPITALS

Hospital	Last Inspected	Units Inspected	Units Deficient Number	Units Deficient Percent	Follow-up
1	05/81	17	13	76	Partial
2	03/81	77	25	32	No
3	12/83	3	3	100	No
4	11/83	10	3	30	No
5	07/81	22	11	50	No
6	12/82	25	9	36	No
7	10/82	14	8	57	No
8	10/82	3	1	33	No

Source: DHEC Radiological Health files, 1985.

When x-ray equipment is not inspected, patients and x-ray equipment operators may be exposed to excessive radiation. Ninety percent of the man-made radiation exposure that people receive in the United States is from medical and dental x-rays. Faulty x-ray equipment can lead to excessive exposure to radiation. Medical studies have linked several forms of cancer to excessive radiation exposure.

DHEC management has not allocated sufficient personnel to the Division of Electronic Products to ensure that all necessary inspections are made. Division productivity standards for inspectors are similar to those of other southeastern states and national standards. However, even when maximum productivity can be attained, only 58% of the recommended inspections can be made each year with existing staff.

Further, the inspection priority system established by this Division is insufficient. DHEC maintains an automated priority list of hospitals needing inspections, but there is no assurance that the hospitals in greatest need of inspection are inspected first. Also, no automated priority schedule is kept for dental and other x-ray machines to indicate those most in need of inspection.

RECOMMENDATIONS

MANAGEMENT SHOULD DEVELOP AND IMPLEMENT AN AUTOMATED PRIORITY SCHEDULE FOR ALL X-RAY UNITS BASED ON THE DATE OF THE MOST RECENT INSPECTION, THE FREQUENCY WHICH IT IS TO BE REVIEWED, AND FACILITY HISTORY.

MANAGEMENT SHOULD REALLOCATE PERSONNEL SO THAT NECESSARY INSPECTIONS OF X-RAY UNITS CAN BE MADE IN A TIMELY MANNER.

Enforcement Inadequate for Radioactive Materials Users

The Bureau of Radiological Health does not fine radioactive materials users for violating radiation control regulations as provided in the Bureau's regulations. The Bureau has authority to impose fines ranging up to $25,000 per violation. Since 1983, the Bureau has fined one of the 72 companies with violations and has not revoked or suspended any licenses.

The following table provides examples of violations which received inadequate enforcement action from DHEC.

TABLE 4

FACILITIES WITH RADIATION CONTROL VIOLATIONS

Facility	Violation	Minimum[1] Fine Range	Fine Imposed	License Suspended/ Revoked
1	Two employees, one of whom was unauthorized to use radioactive material, exposed to excessive radiation. Company did not perform radiation survey nor contact DHEC until 21 days after incident.	$ 60,000 - 91,000	$10,000	No
2	Four meltdowns of gauge housings resulting in release of radiation not reported.	$ 20,000 - 42,000	0	No
3	An employee received excessive radiation and DHEC was not notified as required. The radiation accident was not properly investigated and the employee was not trained to handle radioactive materials.	$ 28,000 - 57,000	0	No
4	Two crates of radioactive materials were partly submerged in rainwater.	$ 5,000 - 10,000	0	No
5	Unauthorized individuals used radioactive materials.	$ 6,000 - 12,000	0	No

[1]Although regulations provide that each day of noncompliance constitutes a separate violation, the Council treated each violation as a one-day occurrence. However, some violations did occur over a period of days.

Source: DHEC Bureau of Radiological Health files.

Section 13-7-85 of the South Carolina Code of Laws states:

> ...any person violating any of the provisions of this article or any rule or regulation...of the Department shall

> be subject to the schedule of fines and civil penalties...

Regulation 61-63, 1.15 of the South Carolina Code of Laws, as proposed by DHEC, sets the schedule of fines based on severity of violation. The most severe violations are those which result in a significant threat to personal or public health. Minor violations are administrative in nature.

DHEC has not taken punitive action against companies which expose workers to excessive radiation. Other dangerous situations occur and DHEC takes no enforcement action. Fines and enforcement actions can be effective in ensuring compliance with regulations.

DHEC officials said they do not have to impose the appropriate fine amount for every violation. Even though the Department proposed the schedule of fines based on severity of violations, DHEC officials said they must use their professional judgment and judge each violation on a case-by-case basis. Also, the officials stated that they must consider a company's financial status in determining whether to fine.

RECOMMENDATION

THE BUREAU OF RADIOLOGICAL HEALTH SHOULD IMPOSE FINES AS PROVIDED IN THEIR REGULATIONS AND TAKE APPROPRIATE ENFORCEMENT ACTION AGAINST VIOLATORS OF RADIATION CONTROL REGULATIONS.

Enforcement Inadequate for Radioactive Wastes Transporters

The Bureau of Radiological Health has not fined and suspended permits of violators of radioactive waste transportation regulations as required by State law. The Bureau is required to fine violators between $1,000 and $5,000 and suspend their permits for not less than 30 days.

The Audit Council examined files of 31 (25%) of 123 companies which are permitted by the Bureau to transport radioactive wastes in the State. Ten (83%) of the 12 radiological violations committed by the transporters did not result in a 30-day minimum permit suspension as required by State law. Eight (75%) of the radiological violations did not result in fines as required.

One company had five repeat violations involving releases of radiation in a four-month time period. State law requires that a repeat violation result in a fine of not less that $5,000 nor more than $25,000 and a permit suspension up to one year. DHEC fined the company $5,000 for one of the violations and suspended its permit for seven weeks. No evidence was found that DHEC fined the company for the violation which occurred before, nor the three violations which occurred less than two months after the permit was reinstated.

Regulation 61-83, Section 7.1 states:

> Any person who commits a radiological violation shall be fined not less than One Thousand Dollars ($1,000) nor more than Five Thousand Dollars ($5,000)... and have his permit suspended for a

> period of not less than thirty (30) days...

A radiological violation is defined as radioactive contamination or the emission of radiation in excess of limits.

Fines and permit suspensions are effective in ensuring compliance with regulations. When companies are not penalized for violations, they have less incentive to comply with the law. Also, DHEC is unfair to companies which obey regulations when it does not punish violators.

RECOMMENDATION

DHEC SHOULD FINE AND SUSPEND PERMITS OF RADIOACTIVE WASTE TRANSPORTERS WHO COMMIT RADIOLOGICAL VIOLATIONS.

Bureau of Water Pollution Control

The Bureau of Water Pollution Control reviews applications and issues permits for wastewater treatment facilities. The Bureau also reviews monthly monitoring and surveillance reports to ensure that wastewater discharges do not pollute the State's streams and rivers. In 1975, DHEC was delegated the authority to administer the Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES). Each of the approximately 1,350 wastewater facilities that discharge into South Carolina's waters is required to have an NPDES permit. Permits are reviewed at

least every five years prior to renewal. Wastewater facilities are required to submit discharge monitoring reports (DMRs) to DHEC quarterly. DMRs contain the results of the self-monitoring done by the facilities. DHEC spot checks facilities by performing operation and maintenance inspections to determine working conditions of the treatment plant. In addition, DHEC field evaluators conduct compliance samplings on the wastewater to compare with the self-monitoring data submitted by the facilities in their DMRs.

Consistency and Timeliness of Enforcement Action

DHEC cannot ensure that consistent or timely enforcement action will be taken on minor dischargers of wastewater. The Audit Council found that violations by major wastewater dischargers, which contribute over 80% of the State's wastewater discharges, are treated in a consistent and timely manner. However, the Audit Council identified 25 of 214 minor facilities which did not receive timely or consistent enforcement action.

Sections 48-1-90 and 48-1-110 of the South Carolina Code of Laws state that it is unlawful to discharge wastewater in violation of permit limits established by DHEC. Further, DHEC policy cites one of its main purposes as "assur(ing) a relatively uniform application of enforcement responses to comparable levels and types of violations..."

DHEC has allowed some facilities to continue to violate State law for longer periods of time than other facilities with similar violations. Inconsistent application of enforcement policy is unfair to those facilities that comply with the law.

For example, two subdivision treatment facilities within the same county received different enforcement responses from DHEC for similar violations. One facility was cited twice for violations. An EQC district official requested that DHEC require the facility's owner to upgrade his plant or tie on to an available municipal system. A Show Cause Hearing was held and the owner agreed to tie on to the other system the following month.

In comparison, the owners of the second facility were treated more leniently. This facility had also received two notices of violation. The district officials had requested that a Show Cause Hearing be held and that an Administrative Order be issued requiring a facility upgrade. Also, an inspection had later revealed six operation and maintenance violations at this plant. Ten months after the district request, no Show Cause Hearing had been held and no order issued.

In another example, a mobile home park owner was ordered to meet a schedule of compliance contained in an Administrative Order, beginning in November 1983. However, despite three notifications from the district office that this order was not being complied with, the facility was not

cited for noncompliance until September 1984. A second mobile home park owner was cited four weeks after noncompliance with an Administrative Order was noted. Two weeks later, the owner met the order requirements.

An automated system, which could provide information on permit and order compliance status, would help DHEC ensure consistency of enforcement actions. The enforcement section manually tracks the compliance status of approximately 1,350 NPDES permits and 100 Administrative Orders each year. The enforcement actions for violations are left to the discretion of the EQC managers, each of whom is assigned to a district. Each manager may have a different perception of the appropriate enforcement response to a violation. Permit compliance information is not available, in a comprehensive or accessible form, to division management. Therefore, management cannot ensure that enforcement actions are timely and consistent.

RECOMMENDATIONS

DHEC SHOULD ENSURE THAT THE MANAGEMENT INFORMATION SYSTEM DEVELOPED FOR THE ENFORCEMENT SECTION PROVIDES COMPREHENSIVE PERMIT COMPLIANCE STATUS REPORTS.

DHEC MANAGEMENT SHOULD USE PERMIT COMPLIANCE STATUS REPORTS TO MONITOR

ENFORCEMENT ACTIONS FOR CONSISTENCY AND TIMELINESS.

Follow-up on Operation and Maintenance Inspections

DHEC does not adequately follow up on wastewater treatment facilities which receive unsatisfactory ratings on operation and maintenance (O&M) inspection reports. An O&M inspection is performed by DHEC evaluators to determine the operating condition of the plant. The Audit Council sampled 123 (9%) of the 1,350 permitted facilities. Follow-up inspections were not carried out within 60 days on 12 (35%) of 35 of those facilities with unsatisfactory report ratings.

DHEC policy states that a follow-up inspection will be made when deficiencies are noted. Policy allows the owner 30 days for corrective action before the first follow-up and 15 days for each unsatisfactory report thereafter.

By not repeating operation and maintenance inspections after deficiencies are noted, DHEC may be allowing deficiencies to continue. Improper operation and maintenance of a facility could result in pollution of the stream receiving the wastewater.

DHEC field evaluators do not have an adequate system to ensure follow-up of unsatisfactory facility reports. The system is not automated and the State Office is not able to monitor the progress of the follow-up inspections.

RECOMMENDATIONS

DHEC SHOULD ENSURE THAT OPERATION AND MAINTENANCE INSPECTION FOLLOW-UPS ARE DONE IN A TIMELY MANNER.

DHEC SHOULD CONSIDER AUTOMATING THE OPERATION AND MAINTENANCE INSPECTION SCHEDULE AND MONITORING FOLLOW-UP FROM THE STATE OFFICE.

Sampling Results not Reported in Timely Manner

DHEC does not notify facilities of inspection results in a timely manner. The Audit Council sampled 183 (22%) of 825 wastewater treatment facility owner notifications from FY 83-84. In 101 (55%) of the cases, DHEC took more than 60 days to report inspection results. Further, 61 (33%) of the notifications were issued in more than 90 days.

DHEC does compliance sampling inspections on treatment facilities to evaluate compliance with wastewater permit limits, and to check for harmful wastewater discharges.

A DHEC official stated that there is no written policy regarding the length of time in which notification of compliance sampling results should be processed. However, another official said that anything longer than 60 days should be considered unacceptable.

Delays in notifying facility owners of inspection results may allow pollution of waters which receive

wastewater from treatment plants. The sample of DHEC records indicated that 69 (68%) of the facilities which received notification more than 60 days after the inspections were made were in violation of at least one permit limit. Additionally, a delay could prevent a facility owner from responding to DHEC about the cause of the violation. For example, one facility responded that "due to the length of time between sampling and the receipt of your letter...we are unable to isolate specific causes for the...violation."

The lack of a formal, written policy which outlines an acceptable response time for compliance sampling inspection results contributes to the slow processing of notifications. Additionally, the lack of an adequate automated system to analyze inspection information and calculate sampling results impairs the timely processing of information.

RECOMMENDATIONS

DHEC SHOULD DEVELOP A POLICY OUTLINING ACCEPTABLE RESPONSE TIMES FOR PROCESSING COMPLIANCE SAMPLING INSPECTION DATA AND NOTIFYING FACILITY OWNERS OF INSPECTION RESULTS.

DHEC SHOULD ENSURE THAT COMPLIANCE SAMPLING DATA IS PROCESSED IN A TIMELY

MANNER AND SHOULD NOTIFY THE FACILITY OWNER OF THE RESULTS.

Implementation of Computerized Enforcement System

From 1979 through 1984, the DHEC Office of Data Systems Management billed the Bureau of Water Pollution Control over $125,000 to develop a comprehensive computer enforcement system that did not become operational. This system was originally designed to identify wastewater permit violations, track permit compliance requirements, provide violation reports and process and store inspection results. However, as of September 1985, the only function the system can perform is processing a report which compares sampling results to permit limits.

According to DHEC records, "[p]rogramming progress not only stopped, but went in reverse" because of turnover in the DHEC Office of Data Systems Management in 1981. Further, spending on the programming and design of the enforcement system indicates an inconsistent pattern of development. For example, in FY 81-82, approximately $34,000 was spent to develop the programs, but in FY 82-83, less than $4,500 was spent. In FY 83-84, the spending increased to more than $27,000. A DHEC official said that more emphasis should have been placed on developing the computer system.

In 1983 and 1984 program evaluations, EPA had recommended that the Bureau of Water Pollution Control use

part of its federal funding to develop a computerized enforcement system separate from the Office of Data Systems Management. However, DHEC continued to develop the old system. Because the enforcement system had not been developed by 1985, DHEC was required by EPA to adopt a federal computerized system and the development of the State enforcement system was abandoned. A DHEC official stated that it will take a minimum of one year for sufficient data to be entered into the federal system to make it a useful enforcement tool.

Since 1983, North Carolina has been using an automated Compliance Monitoring System to more efficiently track and manage wastewater dischargers. This system maintains all permit information, discharge monitoring data, inspection results, compliance schedules and identifies violations by comparing permit requirements with discharge monitoring data. According to North Carolina officials, this system provides a means of consistent, standardized compliance evaluation which enhances effectiveness.

The manual handling of wastewater discharge data prevents the enforcement staff from spending most of their time on enforcement activities. DHEC officials estimate that at least 75% of staff time is spent on administrative tasks. In addition, adequate management oversight of statewide enforcement action is made more difficult when vital and timely information on district activity is not available.

A comprehensive automated system, would provide better management oversight in the Enforcement Section and would help ensure consistency in enforcement actions (see p. 28). In addition, staff time spent on administrative functions could be reduced by automation.

RECOMMENDATION

MANAGEMENT SHOULD ENSURE THAT REQUESTS FOR AUTOMATED SYSTEMS NECESSARY FOR REGULATORY ENFORCEMENT ARE ACTED ON IN A TIMELY MANNER.

Expand Variable Discharge Limits

DHEC allows the use of "variable discharge limits" for wastewater facilities, with different limits for winter and summer. Variable discharge limits allow for the changes in the ability of the stream to accept wastewater discharges. However, DHEC's winter/summer variations do not take all of the possible changes into consideration. A 1982 Georgia study indicated that using monthly limits could reduce the cost of operation and possibly construction costs for facilities which provide a high level of wastewater treatment. According to DHEC officials, 22 wastewater treatment plants provide this type of treatment in South Carolina.

The United States General Accounting Office and the Environmental Protection Agency also have recommended the

use of variable discharge limits to reduce operating and construction costs of wastewater treatment facilities.

Section 48-1-20 of the South Carolina Code of Laws states that DHEC should balance economic and environmental concerns when regulating permittees. With computer modeling techniques, DHEC could develop monthly wasteload allocations to save facility owners money, as well as to ensure acceptable levels of water quality protection.

In 1983, a regional water and sewer authority requested that DHEC consider issuing monthly limits on one of its facilities, citing possible operating cost savings. DHEC took no action on this request.

DHEC officials stated that monthly limits, such as those used in Georgia, would be more difficult to manage. However, DHEC has not studied the potential cost savings resulting from monthly discharge limits.

RECOMMENDATION

DHEC SHOULD DETERMINE THE FEASIBILITY OF IMPLEMENTING MONTHLY DISCHARGE LIMITS FOR ADVANCED WASTEWATER TREATMENT FACILITIES.

No-Discharge Lagoons

DHEC does not routinely monitor wastewater lagoons which are identified by the agency as "no-discharge"

facilities. Approximately 1,800 such facilities were listed in DHEC records as of January 1985. A "no-discharge" lagoon is an impoundment which contains untreated, partially treated or completely treated wastewater. The contents of these lagoons are not permitted by DHEC to discharge into surface waters. These lagoons may be leaking wastewater into groundwater and/or surface water.

In 1984, one DHEC official recommended that the structural integrity of all no-discharge lagoons be reviewed. This official cited the potential for groundwater and surface water contamination and other violations of State and federal regulations as the possible outcome of not reviewing these facilities.

Further, a 1976 EPA report cited "no discharge" lagoons as a top priority for more research and control in southeastern states. EPA recommended that evaluations of the potential for groundwater contamination from "no discharge" lagoons be made. Increased groundwater monitoring and the development of liner systems was also recommended.

DHEC's Division of Groundwater Protection recommends that new lagoons be lined to prevent leakage or monitored to detect potential groundwater contamination. Lagoons which contain hazardous waste must have groundwater monitoring and, by November 1987, double liner systems are required. An official in the Bureau of Solid and Hazardous Wastes Management stated that municipal lagoons are exempted from

the liner and monitoring requirements, even though many municipal lagoons contain hazardous waste from industries. Georgia regulations allow the state to require all no-discharge lagoons to have monitoring wells so that samples can be evaluated for contaminants.

A 1985 EPA report stated that approximately 40% of lagoons are located over thin or permeable soils and pose a threat to drinking water. EPA also found that 36 states had experienced groundwater contamination at lagoon sites. Without monitoring, DHEC cannot know if groundwater contamination is occurring and cannot require the lagoon owner to correct the problem, either through installing liners or closing the lagoon.

Since 1.9 million people, or over 60% of the State's population, rely on groundwater as drinking water, DHEC must ensure that the State's groundwater is protected from contamination. For example, one eight-acre sewage lagoon, which was considered a no-discharge facility, was found to be leaking at a "relatively rapid rate" by DHEC in 1973. However, recommendations by DHEC's Groundwater Protection Division to require a liner or to monitor groundwater at the site were not followed up by the Bureau of Water Pollution Control. As of September 1985, enforcement action had not been taken on this facility.

DHEC officials stated that monitoring no-discharge lagoons was not a high priority relative to monitoring those facilities which are permitted to discharge treated

wastewater. Although DHEC will respond to complaints about these lagoons, officials said that DHEC had neither the time nor the resources to routinely monitor no-discharge facilities.

RECOMMENDATION

DHEC SHOULD REQUIRE THAT ALL NO-DISCHARGE LAGOONS BE EVALUATED FOR STRUCTURAL INTEGRITY. LAGOONS WHICH ARE SOUND SHOULD INSTITUTE A GROUNDWATER MONITORING SYSTEM AND/OR A DOUBLE LINER SYSTEM. USE OF UNSOUND LAGOONS SHOULD BE DISCONTINUED, AND ANY ENVIRONMENTAL DAMAGE CORRECTED.

DMR Enforcement Policy

DHEC's Bureau of Water Pollution Control does not take adequate enforcement action on wastewater treatment facilities which do not submit quarterly discharge monitoring reports (DMRs) on their wastewater discharges. Seventy-four facilities did not submit DMRs for six months or more and did not receive an Administrative Order or penalty. Bureau records indicate that 56 (76%) of the 74 facilities did not submit DMRs for two to three quarters (six to nine months). An additional 18 (24%) of the 74 facilities did not submit DMRs for four quarters or more.

If facilities do not send in DMRs as required by State law, DHEC cannot effectively detect water pollution.

State law requires self-monitoring by wastewater treatment facilities. DHEC instructs facilities to monitor monthly and submit the results, DMRs, to DHEC quarterly. Bureau of Water Pollution Control policy requires the Bureau to issue an Administrative Order and a fine when a facility continuously fails to report wastewater information. The form letter sent to facilities which do not submit DMRs states that the facilities have failed to comply with State law and are subject to "a civil penalty not to exceed ten thousand dollars ($10,000) per day of such violation."

Because DHEC does not take strong action against these facilities, it may be beneficial for a facility to withhold DMR results that indicate violations rather than report them. One facility, which violated its wastewater permit limits for more than two years, received five subsequent notices of violation for not providing DMRs. However, an order including the assessment of a civil penalty was not issued.

A DHEC official stated that this type of violation has a low enforcement priority because of limited resources. However, DHEC's Bureau of Water Supply and Special Programs has fined community water systems for not sending in required self-monitoring data.

Since the Audit Council completed its review of this area, DHEC has issued two orders, including fines, for chronic nonsubmittal of DMRs.

RECOMMENDATION

THE BUREAU OF WATER POLLUTION CONTROL SHOULD ISSUE ORDERS AND ASSESS CIVIL PENALTIES AGAINST ALL FACILITIES WHICH DO NOT SUBMIT DISCHARGE MONITORING REPORTS.

Bureau of Air Quality Control

DHEC is responsible for regulating air quality standards. The following areas were examined.

CEM Enforcement Policy

DHEC's Bureau of Air Quality Control requires quarterly reporting of self-monitored emission data from some companies. Both federal and State regulations require some companies to have continuous emission monitors (CEMs) on their smoke stacks to continuously measure the amount of pollutants being released into the atmosphere.

While Air Quality Control has had fewer problems than the Bureau of Water Pollution Control with facilities submitting their quarterly self-monitoring reports in a timely manner (see p. 40), Air Quality Control has no

written policy specifying enforcement actions to be taken in cases of noncompliance. The lack of a written enforcement policy may encourage some facilities to withhold CEM results that indicate violations.

Replacement of Air Monitors

DHEC has not replaced its old and malfunctioning air monitors with new ones, resulting in an estimated loss of $119,100 from FY 83-84 through FY 85-86. While the Environmental Protection Agency (EPA) has stated that DHEC's air monitors have a five-year life span, 83% of South Carolina's monitors are beyond their life expectancy, with some equipment over nine years old. The 25 ambient air monitors located throughout the State measure the atmosphere for pollutants and potential health hazards. By not replacing the air monitors as they went beyond their life expectancy, the system's maintenance cost has exceeded the cost of buying new monitors.

The maintenance cost of keeping the air monitors in operation has exceeded the cost of replacing the monitors on a five-year cycle, as recommended by EPA, by $39,700 annually. DHEC estimates that the annual cost of maintaining the old monitors is $108,000 as compared to $68,300 to buy and maintain new monitors on a five-year cycle. This $39,700 loss will continue until the State's old and malfunctioning air monitors are replaced.

In addition, the increasing unreliability of the State's monitors has caused DHEC to have no working nitrogen monitors in the State's three metropolitan areas to measure automobile emissions since May 1984. Furthermore, due to downtime on DHEC's air monitoring system, the Department borders on being unable to collect enough data to draw statistically significant conclusions concerning the air quality in the State.

According to DHEC officials, the monitors have been used beyond their expected life spans because State and federal funds were unavailable. However, not replacing the air monitors has been and continues to be more expensive than replacing them.

RECOMMENDATIONS

THE BUREAU OF AIR QUALITY CONTROL SHOULD ESTABLISH A POLICY REQUIRING ORDERS AND PENALTIES FOR FACILITIES WHICH DO NOT SUBMIT CONTINUOUS EMISSION MONITORING REPORTS WITHIN 60 DAYS OF THE END OF EACH QUARTER.

DHEC SHOULD REPLACE ITS AIR MONITORS ON A FIVE-YEAR CYCLE.

Bureau of Water Supply and Special Programs

The Bureau of Water Supply and Special Programs is responsible for ensuring the safety of public drinking water statewide. The Bureau reviews plans for all proposed public water systems, performs inspections, and conducts routine monitoring programs for bacteriological, chemical and radiological contamination of water systems. The Division of Water Supply also provides water sampling and technical assistance to private well owners upon request. The Bureau includes divisions responsible for ensuring the quality of the State's groundwater; enforcing regulations related to shellfish harvesting, processing and shipment; and reviewing plans for and inspecting public recreational waters and swimming pools.

Enforcement of Water Supply Regulations

An Audit Council review of the enforcement of water supply regulations indicates that consistent enforcement action was taken on water systems with recurring chemical and bacteriological violations. In addition, the Environmental Protection Agency (EPA) has recognized South Carolina as one of the few states that has achieved EPA's long-term goal of 95% compliance with monitoring and reporting chemical and bacteriological regulations. Further, the Council determined that DHEC's Bureau of Water

Supply and Special Programs has increased the number of facilities in compliance each year since 1982.

Sanitarians not Notified of Repeat Violations

DHEC's Bureau of Water Supply does not routinely notify the Bureau of Environmental Sanitation about restaurants and mobile home parks that have a history of unsafe bacteria levels in their water supply. The Bureau of Environmental Sanitation is responsible for ensuring that restaurants and mobile home parks have safe and adequate water supplies. The Bureau of Water Supply samples and analyzes water for bacteria levels each month for public water systems.

The Audit Council identified 27 restaurants and mobile home parks that had more than one violation of bacteriological standards for water supplies within a rolling 12-month period from July 1983 through June 1985. Environmental Sanitation officials stated that they had been notified of repeat violations on six (22%) of the facilities. If information regarding unsafe bacteria levels is not made available to sanitarians, proper enforcement action may not be taken on the restaurant or mobile home park.

DHEC regulations require sanitarians to ensure that the water supplies in mobile home parks and restaurants meet DHEC safety standards. Environmental Sanitation's inspection reports for restaurants cite water supply violations as a critical item requiring immediate attention.

Further, water supply is one of the primary elements reviewed during mobile home park inspections. DHEC policy provides for Bureau of Water Supply referrals to sanitarians only when an operating permit is to be suspended. Information regarding potential problems is not provided to sanitarians before this critical stage.

According to an official in DHEC's Bureau of Environmental Sanitation, information on facilities which repeatedly violate water supply bacteria standards would allow sanitarians to more effectively monitor restaurant and mobile home parks. In addition, enforcement action would be more timely if sanitarians were aware that repeat violations had occurred. When action is not taken, mobile home park residents or restaurant customers might unknowingly drink water contaminated with disease-causing bacteria.

RECOMMENDATION

THE BUREAU OF WATER SUPPLY SHOULD ROUTINELY NOTIFY THE DIVISION OF ENVIRONMENTAL SANITATION OF REPEAT VIOLATIONS OF WATER SUPPLY BACTERIA STANDARDS IN MOBILE HOME PARKS AND RESTAURANTS.

Assistance to Private Well Owners

Drinking water in approximately one-third of the private wells tested by DHEC is unsafe. In FY 84-85, DHEC

found that 1,102 (23%) of 4,833 water samples from private wells contained unsafe bacteria levels. In addition, more than 1,300 private wells were found to contain excessive levels of other contaminants, such as iron, copper and pesticides. DHEC officials stated that they will analyze samples upon request, but the agency does not have the resources to educate or provide technical advice to all those in need of assistance. As a result, some private well owners may not be aware of drinking water problems in their area.

Approximately 35% of South Carolina's population, primarily in rural areas, depends upon private wells for their water supply. A study conducted by EPA indicate that the incidence of waterborne diseases, such as hepatitis, cholera and dysentery, are 11 times greater in rural areas.

An Audit Council survey of southeastern states found that Virginia provides information on groundwater and recommends treatment techniques in certain areas of the state. In addition, an Alabama official stated that they are evaluating the expansion of public education and technical assistance programs for private well owners.

By increasing the amount of public education and offering more technical assistance to owners, DHEC can help make private well water supplies safe. In addition, DHEC's divisions of ground water protection and dental health gain information for ground water mapping and fluoride monitoring.

DHEC has one full-time equivalent position (FTE) committed to providing technical assistance to private well owners. However, increased funding and two additional FTEs have been requested for FY 86-87.

RECOMMENDATION

DHEC SHOULD INCREASE THE AMOUNT OF PUBLIC EDUCATION AND TECHNICAL ASSISTANCE OFFERED TO PRIVATE WELL OWNERS.

Enforcement of Swimming Pool Regulations

The enforcement of DHEC policy on the closure of public swimming facilities is inconsistent. Swimming pools which receive notices for similar violations have received different treatment from DHEC officials. As a result, some pools that do not meet DHEC standards are allowed to remain open.

The Audit Council sampled 100 (3.6%) of 2,771 inspection files for 1985. In 15 (15%) of the cases, DHEC inspectors did not close pools in which multiple or recurring violations of DHEC standards were found. However, DHEC inspectors did close other pools for non-recurring, single violations of the same standards. For example, one pool was closed because of a minor chlorine violation. A second pool, in another district, was allowed to remain open despite chlorine, pH and water clarity violations.

DHEC policy on the closure of public swimming facilities details ten circumstances under which pools or natural swimming areas are to be closed. Inspectors review pool areas to ensure that proper water quality is maintained, approved safety equipment is in place and pool equipment is functioning properly. Pools in violation of these conditions are not considered acceptable for public use.

When district inspectors treat pools with violations inconsistently, it is unfair to pool operators who meet the standards. If pools which do not meet DHEC standards are allowed to remain open, the health and safety of swimmers may not be adequately protected.

Inspections are coordinated through DHEC district offices. According to a DHEC official, because district supervisors are responsible for many programs some districts place greater emphasis on monitoring inspection reports than others. Further, it is difficult for the State Office to review inspection reports because each summer season (May-August) over 20,000 inspections are made by the districts.

RECOMMENDATION

DHEC DISTRICT OFFICES SHOULD SAMPLE AND REVIEW SWIMMING POOL INSPECTION REPORTS

PERIODICALLY TO ENSURE THAT ENFORCEMENT ACTIONS ARE CONSISTENT WITH DEPARTMENT POOL CLOSURE POLICY.

Issuance of Rural Water and Sewer Grant

In FY 83-84, DHEC and the South Carolina Rural Water and Sewer Grants Advisory Committee authorized a grant to an ineligible project. DHEC and the Advisory Committee approved a grant of $12,000 to a water company to help fund the replacement of a water system. However, State law stipulates that grant funds be used for original systems or enlargement of existing systems.

The Rural Water and Sewer Grants Advisory Committee reviews applications for State grants and makes recommendations to the DHEC Board. The DHEC Board authorizes the actual payment of grant funds to the recipient.

Section 6-19-20 of the South Carolina Code of Laws provides that grants may be made for "construction, be it original or enlargement of supply, treatment, purification, storage and distribution facilities for water systems." State law does not allow grants to replace existing systems. Further, DHEC staff stated that the Advisory Committee did not follow its own policy by approving funding for the project.

State law provides for all Rural Water and Sewer Grant funds appropriated but not expended at the end of the fiscal

year to be carried forward to the next fiscal year. By approving the funding of the project, DHEC and the Advisory Committee prevented the use of those funds for eligible projects the next year. Further, the intent of the act which created the program was to fund water and sewer projects in needy areas with inadequate water supply and waste treatment. No evidence exists that this project met this criteria.

According to the Chairman of the Advisory Committee, the project was funded because it qualified for a federal loan and the Committee felt that it was necessary to fund a project in the water company's district. The Chairman also stated that the project received approval partly because it was the end of the fiscal year and the Committee did not wish to carry the funds forward as allowed by law.

RECOMMENDATION

DHEC SHOULD ONLY AUTHORIZE RURAL WATER AND SEWER GRANT FUNDS FOR NEW SYSTEMS OR ENLARGEMENTS OF EXISTING SYSTEMS AS REQUIRED BY STATE LAW.

Special Issues

During the course of the audit, the Council examined several special issues which involved more than one division

of DHEC. The following describes the problems the Council found.

Two Case Studies

The Audit Council examined DHEC files on two companies with histories of pollution violations. One company's problems centered on handling toxic chemical spills. The second company violated air pollution regulations many times over a three-year period. However, DHEC needs to improve its monitoring and enforcement activities so that the environment and public health are adequately protected.

Inadequate Handling of Toxic Spills

DHEC response to a company with a history of toxic chemical spills has been inadequate. DHEC has neither adequately penalized the company for repeated violations of State pollution laws nor ensured that its legal orders requiring corrective action are followed. The company has experienced at least 11 toxic spills or discharges and one explosion between January 1981 and September 1985. At least seven toxic spills and discharges have left the company's property, endangering the health and property of nearby residents and the community. The following outlines DHEC's enforcement of regulations to deter further spills.

- In September 1981, after three toxic chemical spills, DHEC ordered the company to install a chlorine detection and alarm system to alert personnel of leaks. The company was also ordered to employ a guard "after hours." Although DHEC reduced a $30,000 fine by $15,000 because the company agreed to implement these

requirements, DHEC has not conducted routine checks to determine if the alarm works or if the guard is on duty. In subsequent spills, the alarm did not work and no guard could be located, delaying clean-up and evacuation efforts. As of September 1985, DHEC has not taken action to ensure the provisions are met.

- In June 1982 after two more spills of over 600 gallons of chemicals, DHEC required the company to pay a $500 fine, submit quarterly reports concerning well water quality, and provide other safety measures. Between October 1983 and March 1985, no quarterly reports were submitted as required. Although DHEC could have fined the company $10,000 per day for not submitting reports, no fines were imposed.

- Later in 1982, DHEC closed the facility for additional spills requiring evacuation of residents. After DHEC allowed the company to reopen, an explosion and at least three spills occurred in 1983 and 1984. Although fines of up to $10,000 per day per occurrence could have been imposed, DHEC did not fine the company.

- One requirement for reopening in 1982 was that new safety procedures be adopted for handling chlorine gas. Between March 1983 and March 1985, no evidence was found that DHEC checked to ensure that new procedures continued to be followed.

- In 1984, the company failed to submit quarterly wastewater discharge reports for two consecutive quarters as required by a 1982 order. Although DHEC could have fined the company $10,000 per day for this violation, DHEC did not fine the company.

- In August and September 1985, two more pollution violations, a spill and a release of gas, occurred. The release of gas caused residents to be evacuated. The spill, occurring in August 1985, required that 500,000 gallons of contaminated water, flowing toward Lake Murray, be removed. DHEC allowed the company to continue to operate although the cause of the leak could not be determined as of September 1985.

When asked why stricter enforcement action had not been taken, DHEC officials stated there is a need to deal with the company more strictly. Agency officials stated they did not take stricter action on several violations because the violations were "administrative" and posed no environmental

threat. DHEC officials stated no fines or other actions were imposed for the spills occurring in 1983 and 1984 because they were primarily confined to the plant site. When asked if checks were conducted to determine if proper operating procedures were practiced, if the guard was on duty, and if the alarm worked, officials stated that checks were made but were not documented in the file. Also, although the order states a guard is to be employed "after hours," DHEC officials stated it really meant for one year.

In October 1985, DHEC issued an emergency order to close the plant.

Slow and Inadequate Response to Air Pollution Violations

DHEC's response to a company with a history of air pollution violations has been slow and inadequate. Since 1982, a company has been violating air pollution regulations with no punitive action for two major violations; and an order was not issued for a third major violation until three years after problems were first noted. The problems were also apparent to nearby residents; from February 23 through April 18, 1985, residents made 80 complaints about excessive smoke from the plant. The following outlines DHEC's response to the company's violations.

Two Lead Furnaces

- DHEC did not fine or issue an order against the company for violating lead emission standards for at least four months in 1982. Workers at the plant reported increased blood lead levels at this time.

Two Scrap Incinerators

- In January 1983, DHEC tested one incinerator and found it polluting the air. Temporary permits for both scrap incinerators expired in March 1983. In November 1983, DHEC wrote the company that the first incinerator was still in violation. As of October 1985, the scrap incinerators continued to operate without permits. However, DHEC did not fine or issue an order against the company for polluting the air and operating without a permit.

Fugitive Emissions

- Fugitive emissions are smoke and other pollutants which escape through cracks and vents in equipment and, therefore, are not treated by air pollution control equipment. For three years, DHEC allowed the company's fugitive emissions problems to continue without fining the company or ordering it to correct the problem.

- From February through April 1985, DHEC inspectors reported fugitive emissions 45 times. In October 1985, the company signed a DHEC order denying "each and every allegation" that the company had violated pollution control laws, but agreeing to upgrade its equipment. DHEC did not fine the company.

DHEC's Role

DHEC is responsible for protecting the State's environment from pollution and for ensuring that the public health is protected. Section 48-1-330 of the South Carolina Code of Laws allows DHEC to fine violators of pollution laws up to $10,000 per day per occurrence.

Strict action, such as fines imposed for each violation, is a strong incentive to encourage compliance with State pollution laws. When DHEC does not take steps to ensure health and environmental hazards are corrected, public confidence in DHEC's handling of environmental hazards is eroded.

RECOMMENDATION

MANAGEMENT SHOULD ENSURE THAT COMPANIES WHICH POLLUTE ARE MONITORED AND FINED. CONTINUED NONCOMPLIANCE SHOULD RESULT IN CLOSURE.

Investigation of Complaints not Timely

DHEC has been slow to implement recommendations made by the federal Centers for Disease Control (CDC) concerning a rural community's health problems. By not responding promptly, DHEC may be prolonging the community's health problems.

In January 1985, the CDC reviewed DHEC's investigation of possible community health hazards from a nearby industry with a history of pollution violations. The CDC made recommendations so that DHEC could further investigate the relationship between the company and the community health problems. Of four recommendations the CDC made, two recommendations were implemented in a timely manner within several weeks. The remaining two recommendations concerned water sampling needed to determine if the company could be responsible for high copper levels found in the drinking water. DHEC began implementing the third recommendation six months later in July 1985. As of October 1985, DHEC had not decided whether to follow the fourth recommendation.

DHEC is the sole State agency responsible for protecting the public health. To adequately do this, DHEC

should implement recommendations made by the federal Centers for Disease Control in a timely manner.

A DHEC official said that it takes a long time to complete the recommendations, which involve collecting samples and analyzing the results. However, the official did not address DHEC's delay of six months and more in beginning implementation of the recommendations.

RECOMMENDATION

DHEC SHOULD RESPOND TO RECOMMENDATIONS BY THE FEDERAL CENTERS FOR DISEASE CONTROL IN A TIMELY MANNER.

Confidential Files

DHEC has not released information on pollution violations to the public and press as required by State law. The Audit Council found 23 cases where the Bureaus of Solid and Hazardous Wastes Management and Air Quality Control maintained information in "confidential" files which should have been available to the public. The following are examples of information unlawfully maintained in confidential files:

- One confidential file on a federal facility contained a description of 21 oil and toxic waste spills, inspection results and notices of violation. Similar information from other files has been made public.
- DHEC allowed one company to keep "all permits, notifications, authorizations and any other paperwork on site to insure confidentiality." [Emphasis Added]

- One company's entire file was confidential. DHEC rejected a public request for information because the company had failed to comply with its Administrative Consent Order. However, the law does not allow DHEC to withhold information because a company has violated its order.

- From February through April 1985, DHEC conducted 48 follow-up inspections as a result of citizen complaints about one plant in Lexington County. Many of the complaints were substantiated, with the inspectors reporting excessive smoke, strong acrid odors and malfunctioning air pollution control equipment. All of this information was unavailable to the public, including the citizens who made the complaints.

Section 48-1-270 of the South Carolina Code of Laws states "[a]ny records, reports or information obtained under any provision of... [the Pollution Control Act]... shall be available to the public." The statute excludes information which constitutes a trade secret from disclosure. However, none of the 23 cases reviewed by the Audit Council documented that the information contained in the files constituted trade secrets. Further, the Freedom of Information Act would also require that this information be released to the public.

By keeping information other than trade secrets and information protected by the Freedom of Information Act confidential, EQC has not given the public and the press their rightful access to pollution records. Without access to these records, the public cannot learn of DHEC's response to pollution problems in their communities.

RECOMMENDATION

DHEC SHOULD MAKE AVAILABLE TO THE PUBLIC ALL RECORDS, REPORTS OR INFORMATION, EXCEPT TRADE SECRETS AND OTHER PROTECTED INFORMATION, WHICH IT HAS OBTAINED UNDER THE POLLUTION CONTROL ACT.

CHAPTER III

HEALTH PROTECTION

DHEC's Health Protection Division is responsible for providing medical and preventive health services through 15 health districts to 46 counties in South Carolina. Each district employs a medical director to oversee district operations. Programs administered by the Health Protection Division include Home Health, Maternal and Child Health, Children's Rehabilitative Services, Family Planning, Cancer Treatment, Environmental Sanitation, Drug Control and other programs. The Council visited 19 counties in seven health districts to examine records and observe the operation of various health programs.

Division of Home Health Services

DHEC's Home Health Services provides intermittent care for homebound patients. Physicians prescribe home care for their patients and determine the treatment plan. Services may include: skilled nursing; home health aide; physical, speech and occupational therapy; dietary counseling; and medical social services. Home health services are available in all counties in South Carolina.

DHEC Competing Against Private Sector in Home Health

DHEC is competing against private and non-profit organizations by providing home health services that the private sector can provide. Furthermore, a potential conflict of interest exists because DHEC decides whether private and non-profit agencies are allowed to provide home health services. The FY 85-86 Appropriations Act provides for a $30 million Home Health budget and over 700 full-time equivalent positions. In FY 83-84, DHEC maintained approximately 80% of the State's market share, defined as the number of people served, in the home health industry.

Between July 1982 and September 1984, DHEC received 22 applications to provide home health services. Eleven (50%) were disapproved, in part, because DHEC was providing the service. In 1982, one applicant requested DHEC permission (a certificate of need) to provide home health services. The application was consistent with the State Health Plan, and the Regional Health Services Agency recommended approval. DHEC disapproved the application because DHEC was already providing the service and a new provider would be a duplication of existing services.

Section 44-1-200 of the South Carolina Code of Laws states, in part, that DHEC may provide home health services in areas of the State "in which adequate home health services are not available." Section 44-1-200 further provides that:

> The Department shall, whenever possible, assist and advise nonprofit agencies or

> associations in the development of home health services programs and may enter into agreements with such agencies or associations.

However, DHEC has not contracted with other certified home health agencies to provide services.

In March 1984, the DHEC Board approved the concept of removing the requirement for a certificate of need (CON) for home health agencies in exchange for stronger licensure and certification laws. However, bills proposed to delete the CON requirement for home health services were not reported out of House and Senate committees during the 1985 session of the General Assembly.

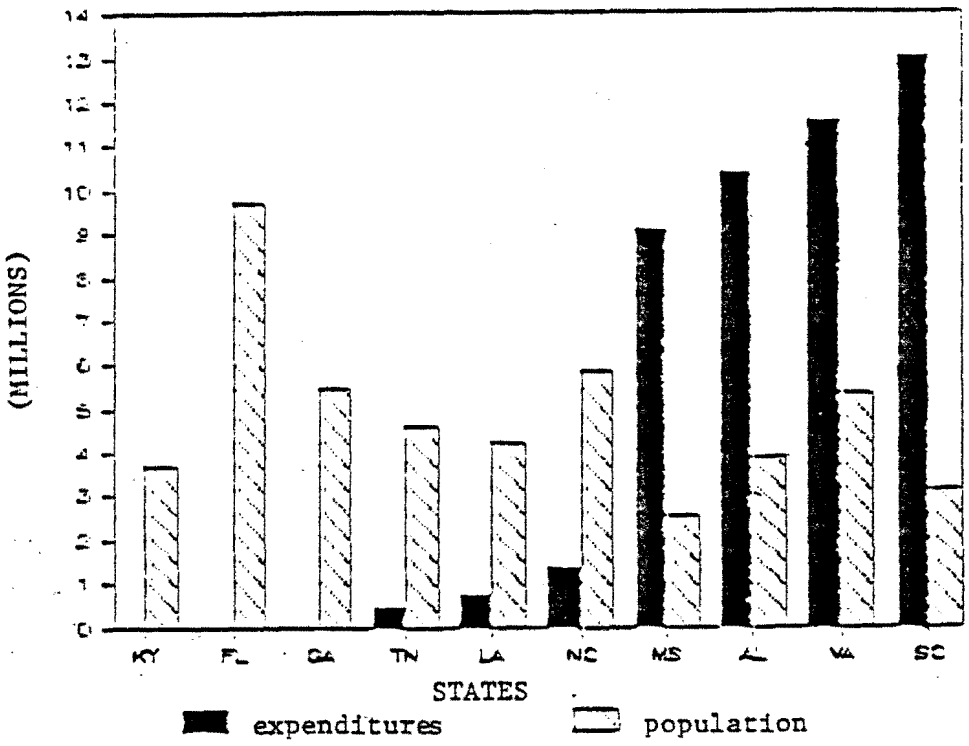
A review of nine additional southeastern states indicated that the State of South Carolina had the highest expenditures for home health services in the region (see Graph 1). A North Carolina official said that North Carolina's major involvement in home health services was contracting with county or non-profit providers to serve indigents. He stated that North Carolina had spent approximately $1.4 million in FY 83-84 for home health services. Georgia appropriates no state funds for home health services.

GRAPH 1

HOME HEALTH EXPENDITURES

FY 83-84

BY STATE



[1]FY 83-84 was the most recent year for which actual expenditures were available from all ten states.

Source: Audit Council, based on information obtained from states and United States Census, 1983.

When DHEC controls entry into the marketplace and provides approximately 80% of all home health services in South Carolina, competition is inhibited. DHEC's 15 health districts are the 15 largest providers of home health services in the State and growing. From FY 81-82 through FY 85-86, DHEC added 267 positions to the program and its budget for Home Health Services increased by more than $21 million. Unlike DHEC, "for profit" providers of home

health services are taxable entities, which generate revenues for the State.

DHEC has been the primary provider of home health services since 1966. The lack of alternative providers of home health services before 1978 can be traced, in part, to the absence of a State licensure law. Federal regulations do not allow "for profit" providers to participate in the Medicare program unless they are licensed by the State in which they provide services. South Carolina did not have a licensure program until 1978; therefore, the largest source of potential revenue, Medicare, was available only for non-profit agencies, such as DHEC. Because private industry is now willing to provide home health care, services by DHEC may no longer be needed in some areas.

Also, DHEC's CON process, enacted for home health in 1980, assists in reducing competition against DHEC. Other organizations wanting to provide services must seek DHEC approval and also prove that there is a need to compete against DHEC. This potential conflict of interest makes it difficult for organizations to enter the business and helps to keep DHEC's market share high.

However, if DHEC continues to provide home health care, management needs to be improved in two areas.

Billable Home Health Visits not Provided

DHEC Home Health officials have not ensured that patient visits are made as frequently as ordered by the

patient's physician. In 63 (35%) of 177 sampled cases in four districts, DHEC nurses or home health aides did not make the minimum number of visits ordered by the physician. An additional five cases indicated that visits had not been made by therapists and medical social workers. In 1984, DHEC's Bureau of Health Licensing and Certification found eight additional DHEC health districts which did not make required visits.

Federal Medicare regulations require that any changes in a patient's treatment plan, including the frequency of the visits, must be cleared through the attending physician. Further, DHEC policy states "when a planned visit frequency cannot be met, the family and/or the patient must be notified, reason stated, and alternate plan documented." There was no evidence to indicate that this had been done in the sampled cases.

The Audit Council estimates that approximately $183,000 in billable visits were not made by the DHEC Home Health staff in these four districts during FY 84-85. Additionally, patients who were not seen as often as recommended by their physicians may not have received home health care as frequently as needed.

According to Home Health officials, some districts do not adequately plan or schedule home health visits. The Home Health program is reviewing a computerized calendar system to more efficiently manage staff time in the

districts. The State Office cannot effectively monitor visit frequency at this time.

Patient Recertifications not Timely

DHEC records indicate that treatment plans for home health services are not always recertified by a physician in a timely manner. Certification ensures that home health treatment is necessary and appropriate. The Audit Council sampled 177 (11.3%) of 1,564 active Home Health files in four districts. In 19 (15%) of 125 cases needing recertifications, treatment plans were not recertified by a physician within 60 days. Additionally, recertified treatment plans which were pre-dated or altered by Home Health staff were found.

Federal Medicare regulations require a physician's recertification as a condition of covering the home health services provided to the patient. Additionally, DHEC policy states that plans or orders for home health service must be reviewed and signed by the physician no less frequently than every 60 days. Home Health officials said that a signed treatment plan recertifying the patient for services must be in the file within 60 days of the initial plan.

When recertifications are not performed in a timely manner, DHEC cannot ensure that the treatment provided is consistent with the wishes of the patient's physician. By pre-dating recertifications and changing dates on signed recertifications, DHEC staff is following neither Medicare

nor DHEC policies which were established to ensure that adequate treatment is provided. Further, Medicare will not cover the cost of home visits made on patients who have not been recertified. DHEC faces a potential loss of revenue each time a home visit is made during the period after the 60 days has passed and before the recertification is signed.

Insufficient scheduling of recertifications has caused some patients' treatment plans not to be evaluated within 60 days. Home Health staff did not always allow adequate time for physician review and certification of the updated plans.

RECOMMENDATIONS

THE GENERAL ASSEMBLY SHOULD CONSIDER ELIMINATING THE CERTIFICATE OF NEED REQUIREMENT FOR HOME HEALTH SERVICES.

IF THE CERTIFICATE OF NEED (CON) REQUIREMENT IS NOT REPEALED, THE GENERAL ASSEMBLY SHOULD CONSIDER TRANSFERRING CON TO THE HEALTH AND HUMAN SERVICES FINANCE COMMISSION.

DHEC SHOULD REDUCE OR CEASE PROVIDING HOME HEALTH SERVICES IN AREAS WHERE PRIVATE OR NON-PROFIT AGENCIES WILL PROVIDE SERVICES. STATE HOME HEALTH

FUNDS SHOULD PAY ONLY FOR HOME HEALTH SERVICES TO INDIGENT CLIENTS.

DHEC SHOULD ENSURE THAT DISTRICTS ARE ADEQUATELY PLANNING, MAKING AND BILLING HOME HEALTH VISITS.

DHEC SHOULD ADOPT A CALENDAR SYSTEM SO THAT STATE AND DISTRICT MANAGERS CAN MORE EFFECTIVELY MONITOR VISIT FREQUENCY.

DHEC SHOULD DEVELOP SPECIFIC GUIDELINES FOR SCHEDULING AND PREPARING RECERTIFICATIONS; GUIDELINES SHOULD BE INCLUDED IN THE HOME HEALTH POLICY MANUAL. HOME HEALTH OFFICIALS SHOULD MONITOR DISTRICT COMPLIANCE WITH THESE GUIDELINES.

Bureau of Maternal and Child Health

The infant mortality rate in South Carolina ranked in the top two nationally from 1978 through 1984. One of the major contributors to infant mortality is the lack of adequate prenatal care. Thus, the provision of prenatal

services through the 46 county health departments has been a DHEC Board priority.

In 1983, the DHEC Board mandated that every county in the State would provide prenatal care by January 1986, or show that the need is met. The 12 counties which did not offer prenatal care in 1983 do so now, have made arrangements to do so, or can assure that the need is met by another provider. Health departments provided prenatal care to 10,007 patients in FY 84-85.

Reduction of infant mortality is one of the primary goals of the federal Title V Maternal and Child Health (MCH) Block Grant program. Title V provided approximately $9 million in FY 84-85 to South Carolina for the promotion of maternal and child health through the provision of basic primary and prenatal care.

The Audit Council reviewed the method by which DHEC apportions Title V funds to the health districts and also reviewed the High Risk Perinatal Program. The results of these reviews follow.

Allocation of Title V Funds

Title V funds are allocated by the Division of Maternal and Child Health to the 15 health districts based on the number of pregnant women and children at 150% of poverty or less (defined by DHEC as "need") in each district. However, the Division does not ensure that those identified as "in need" of services are actually served. The Audit Council

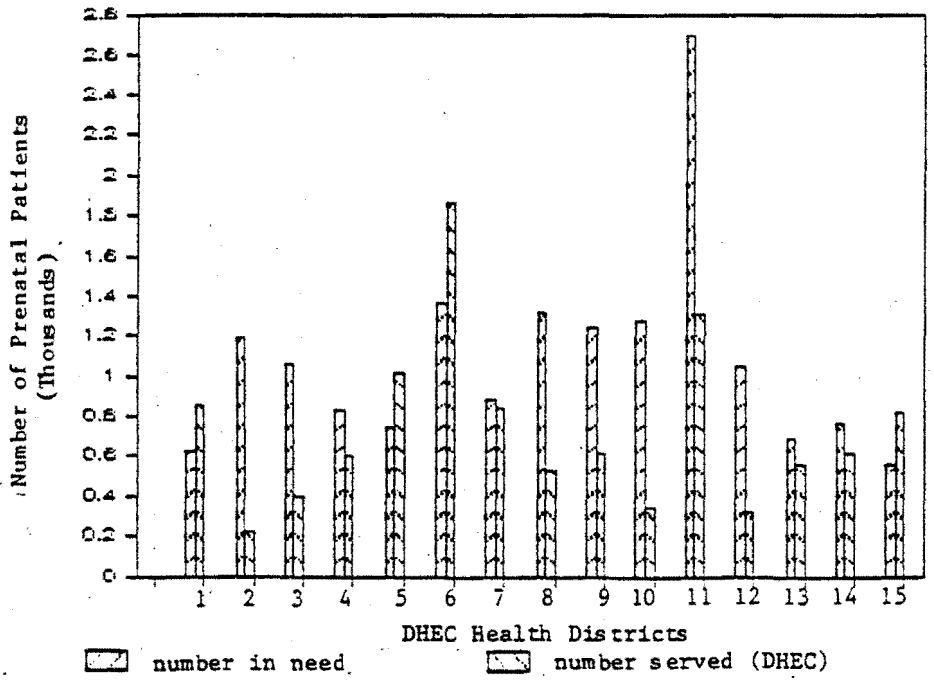
found that some districts are providing prenatal care through the health departments to as few as 18% of the women DHEC estimates are "in need," and yet are funded as if 100% of the women were served. Conversely, other districts serve 135% to 145% of "need" without receiving funds proportionate to their effort.

Graph 2 illustrates the "need" (the number of pregnant women at 150% of poverty) in each of the 15 health districts upon which funding is closely based and compares that number to the actual number who were provided complete prenatal care services in FY 84-85. Six of the 15 health districts served fewer than 50% of the women "in need," and four of the 15 served from 135% to 146% in FY 84-85.

GRAPH 2

COMPARISON OF THE NUMBER OF PRENATAL PATIENTS "IN NEED" TO THE NUMBER SERVED BY DHEC

FY 84-85



Source: Audit Council, based on information from DHEC Bureau of Maternal and Child Health.

The Bureau of Maternal and Child Health has not held districts accountable for the number of prenatal clients served by the health districts. In addition, the Bureau has not promulgated performance standards by which the districts might judge the efficiency of the services provided.

The 1981 Title V Block Grant legislation does not provide guidance to the states regarding allocation of funds other than that "the State will provide a fair method (as determined by the State) for allocating funds." According

to a Title V official, allocation methods vary widely from state to state.

In effect, the Bureau has disbursed Title V funds to the districts as "mini-block grants" without performance requirements. One effect of the lack of control by the Bureau has been widely varying costs for similar services. In FY 83-84, costs per visit varied for initial prenatal visits from $48 in one district to $188 in another and averaged $85. Costs for prenatal revisits varied from $16 to $65 and averaged $29. Another effect is widely varying program impact from district to district in addressing the need for prenatal care.

Other Providers Need to be Considered

The Title V allocation system does not account for the availability of other health care providers. Other federally supported projects such as Rural Health Initiatives (RHIs) and Community Health Centers (CHCs) serve low income mothers and children. The two State Medical University Family Practice residency programs also serve this group, to some extent, in seven Family Practice Centers across the State. The effect has been that resources allocated by the Bureau of Maternal and Child Health may not be directed to serve those areas with the greatest need.

There are 18 RHI/CHC programs in the State, all with the mission of providing primary medical care. The Audit Council found that seven of the 18 programs provided

prenatal care to between 40 and 325 clients each, and one CHC served approximately 900 prenatal patients, in 1984 (or in FY 84-85). Most of the clients served are indigent or receive Medicaid/Medicare. Of the remaining ten programs, five are now providing, or will soon provide, prenatal care.

In a 1983 review of the Title V Block Grant program, a senior health specialist with the Children's Defense Fund identified major problems in planning MCH systems. The first two problems are as follows:

> 1. Failure to conduct thorough needs assessments or to link distribution of MCH funds to such assessments... Even to the extent that (adequate) assessments occur, the dollars may not be rationally allocated according to the assessment... [Emphasis Added]
>
> 2. Failure to take into account the availability of other health care providers in determining what resources must be developed... [Emphasis Added]

The disparity in prenatal care availability may be seen by comparing several health districts. In one four-county health district in FY 84-85, DHEC provided prenatal care to 525 women, 40% of the 1,328 projected to be in need. No RHIs or Family Practice Centers provided prenatal care in 1984 in this district. In another three-county district, DHEC provided prenatal care to 350 (27%) of the 1,278 women projected to be in need. One of the two RHIs in this district provided prenatal care to approximately 40 patients in FY 84-85. In contrast, in a three-county district with 2,699 women projected to be in need, DHEC served 1,315

women, two RHIs served 1,100, and a Family Practice Center at a major teaching hospital also served this population. In another two-county district with 1,365 projected to be in need, DHEC served 1,868, an RHI served 117 and a Family Practice Center also provided prenatal care.

In 1983, the Governor's Council on Perinatal Health wrote that prenatal care availability in South Carolina almost always was related to an individual's ability to pay. The Council also wrote that some areas of the State were served very well while others remained unserved or underserved. The Council recommended more coordination among health care providers. Although DHEC has made significant progress since 1983 in increasing availability of prenatal care through county health departments, more coordination is still needed, as is a revision of the MCH allocation system.

RECOMMENDATIONS

THE TITLE V ALLOCATION SYSTEM TO THE DISTRICTS SHOULD ACCOUNT FOR DISTRICT PERFORMANCE IN PROVIDING PRENATAL CARE. THE BUREAU OF MATERNAL AND CHILD HEALTH SHOULD ALSO CONSIDER LOCAL AVAILABILITY OF NO-COST PRENATAL CARE IN ALLOCATING TITLE V FUNDS.

THE BUREAU OF MATERNAL AND CHILD HEALTH SHOULD STUDY THE POSSIBILITY OF EITHER CONTRACTING WITH THE HEALTH DISTRICTS FOR SERVICES, OR SHOULD IMPLEMENT PERFORMANCE STANDARDS.

High Risk Perinatal Program

Funded at approximately $5 million for FY 85-86, this program is designed to reduce infant mortality by providing both high risk obstetric care and high risk newborn care by approved providers. Women are screened for high risk conditions when they apply for WIC (Women, Infants and Children) funding; approximately half the pregnant women in the State receive WIC food vouchers. Of those screened in FY 84-85, approximately 21% were determined either to have one of a number of high risk pregnancy conditions, or to be at risk for pre-term labor.

In FY 84-85, of the 2,410 women determined to have one or more high risk factors, 1,116 women were authorized to receive funding through the High Risk program. The Audit Council reviewed administration of the High Risk program and found several problems.

Inadequate Evidence of Medicaid Review

The High Risk program did not require evidence from the 15 health districts that clients, on whose behalf they made

application, had undergone Department of Social Services (DSS) review for Medicaid or Medically Needy program eligibility. The result was that some clients who may have been eligible for Medicaid or Medically Needy funding were funded by the High Risk program, while other clients were turned away because the program had reached the monthly "cap" and could not accept them due to lack of funds.

A senior health specialist with the Children's Defense Fund reviewed implementation of Title V programs in 1981 and wrote:

> Title V should clearly function as "last dollar" to Medicaid in order to permit state Title V agencies to preserve funds to treat low-income families who are ineligible for Medicaid benefits. [Emphasis Added]

She also cited the estimate that Medicaid reaches fewer than 40% of those persons living in poverty.

The Audit Council sampled 80 (10%) of approximately 800 "active" high risk case files, most of which were approved for funding in FY 84-85. Based on family size, composition and income information, the Council found that 11 of the 80 cases sampled may have been eligible for either Medicaid or the Medically Needy program. Thirteen women who applied for High Risk funding in FY 84-85 were denied due to lack of funds; they may have been denied unnecessarily.

Program officials cited a number of reasons for not requiring evidence of DSS screening from the health districts during the application process. One official stated the program does not require evidence of DSS review

from the health districts because program personnel act as advocates for clients; if the clients were potentially eligible to receive the benefits of Medicaid funding, she was sure the districts would make sure the clients were screened. Also, clients may not elect to receive Medicaid, because the client must identify the baby's father; this is not a requirement of the High Risk program. In addition, program officials note that some clients prefer to receive funding through the DHEC High Risk program rather than through Medicaid or the Medically Needy program, due to the "welfare" association of the latter two programs.

According to program officials, a new DHEC form for client referral to the Medically Needy program has been developed which should help prevent use of Title V funds by those eligible for Medically Needy or Medicaid coverage.

Problems in Case Management

The Audit Council reviewed applications denied for funding by the High Risk program from three of the 15 health districts in FY 84-85 for fairness, consistency and conformance to program regulations. The following problems in management were noted.

(1) "After the fact" funding:

Program officials have not been consistent in deciding whether to fund patients who apply after they have delivered. Two applications were denied funding from one district because the patients had already

delivered, or were in the process at the time of application. In response to one application, a program official wrote: "There is no funding available for the 'after the fact' application." In response to the second application, the official refused to reconsider previous denial of funding, writing: "Our funding did not help this patient."

Of the 80 clients reviewed by the Audit Council, two had been accepted "after the fact." One case was approved over the telephone on behalf of a woman who had, the day before, gone into premature labor and delivered a baby which had died. In the second case, application was also made by telephone on behalf of a patient who had delivered the day before under emergency circumstances.

No specific program policy or regulation addresses the "after the fact" application. Program regulations state unless a condition could not be recognized before 30 weeks, applications must be received prior to 30 weeks gestation. The purpose of the program is to improve pregnancy outcome, through the provision of timely obstetric care, to income-eligible women with high risk conditions.

(2) Incomplete applications returned:

In one district, five of 30 applications which were denied had been sent back to the districts for

some type of missing information. Two applications were sent back for due dates, two were sent back for income information, and one was sent back for a form. No evidence showed that the program followed up on these cases; in effect, once they sent the applications back, the status of the cases was unknown.

Program regulations state the incomplete applications will be returned. However, program officials did state they do call for information in some cases.

A central log of all applications received by the program, documenting important handling dates and disposition, would help the program keep track of all clients. This would prevent cases from being "lost" in the system, if applications continue to be returned to the district for missing information.

RECOMMENDATIONS

THE DIVISION OF MATERNAL HEALTH SHOULD REQUIRE EVIDENCE OF THE DEPARTMENT OF SOCIAL SERVICES SCREENING FOR PROGRAM ELIGIBILITY FOR THOSE CLIENTS IN APPROPRIATE INCOME CATEGORIES.

THE DIVISION OF MATERNAL HEALTH SHOULD MAINTAIN STRICT ACCOUNTABILITY FOR ALL

HIGH RISK APPLICANTS THROUGHOUT THE APPLICATION AND PROGRAM PROCESS.

Bureau of Drug Control

DHEC's Bureau of Drug Control is responsible for ensuring controlled drugs are not diverted for illegal use. The Bureau licenses and inspects pharmacies, hospitals, physicians and others who maintain and/or dispense controlled substances. The Bureau is responsible for seizing illegal drugs and initiating prosecution against those violating the Controlled Substance Act. The following problems were found.

Accountability of Evidence Needs Improvement

Bureau management needs to improve accountability and security of evidence seized by drug control officials. The following problems were found:

- Bureau management does not maintain an inventory of items confiscated. The Council could not verify the disposition of all evidence seized to determine proper accountability. In a sample of seven arrests where evidence was seized, evidence for one case (fiorinal, a controlled drug) was missing.

- Evidence, such as cocaine, morphine, dilaudid and valium, was not maintained in an evidence room. The property was stored in at least 11 different locations, including file drawers, desks, car trunks, agents' homes and a safe. Certain areas where drugs were stored were accessible to the public.

- There is no policy concerning the destruction of evidence. Some evidence still maintained, including heroin, cocaine and marijuana, was confiscated in the 1960s.

DHEC regulations require that regulated pharmacies maintain accurate records of controlled substances, and that drugs are securely stored.

Other State agencies require accurate and detailed records of confiscated property. For example, the Department of Corrections requires that a detailed inventory be maintained and evidence be destroyed in a timely manner.

Without adequate safeguards, storage and record-keeping, DHEC's evidence may be lost, stolen or misplaced. One inspector, who maintained controlled substances in his car trunk, was involved in an automobile accident in 1980. Agency records indicate that drugs were "strewn over an area of approximately 1½ acres." However, DHEC still allows inspectors to store controlled substances in their car trunks. The Bureau cannot ensure that confiscated drugs are not diverted. Additionally, the Bureau has fined registrants and suspended their controlled substance licenses for record-keeping problems similar to those of the Bureau of Drug Control.

According to Bureau management, maintaining an evidence room may require the evidence custodian to appear frequently in court to verify the "chain of evidence." This process, officials stated, may be too time consuming and expensive. Instead, each agent is "individually responsible for storing confiscated evidence, and does so in individually determined ways."

Inconsistent Sanctions Imposed

The Audit Council reviewed administrative sanctions taken against pharmacy owners and pharmacists, and found inconsistent case dispositions. Standards of fairness and justice would include imposition of similar sanctions for similar offenders in similar circumstances.

DHEC audits the controlled substance inventories in pharmacies across the State at least once every three years. Bureau officials consider discrepancies between controlled substances "on the books" and those on hand of more than 5% unacceptable. DHEC's handling of eight pharmacies which have shown unacceptably high discrepancy rates in audits since July 1981 is shown in Table 5. Six of the eight registrants were fined, placed on probation and required to report controlled substance inventories to DHEC. Another registrant, with a 32.9% discrepancy, surrendered his license. However, the greatest discrepancy identified in a pharmacy (40.6%) resulted in no action by DHEC (see Table 5). Bureau officials could not explain the lack of response or disposition in this case.

TABLE 5

DHEC ADMINISTRATIVE ACTIONS AGAINST PHARMACIES WITH DISCREPANCIES GREATER THAN FIVE PERCENT

Pharmacy	Audit Year	Percent Discrepancy	Fine	Years Probation
1	1981	30.20	$2,500	2
2	1982	8.07	2,500	3
3	1982	13.75	500	1
4	1982	32.90	(registrant surrendered license)[1]	
5	1982	23.10	5,000	3
6	1982	10.82	1,000	2
7	1983	40.60	(no record of any action taken)	
8	1984	28.00	2,500	3

[1]This case also involved a charge of unlawful dispensing.
Source: Audit Council, based on information from DHEC Bureau of Drug Control.

The Bureau also audits physicians, nurses, dentists and other professional controlled drug registrants. An internal department memorandum (7/27/84) tracked the actions taken by the Bureau of Drug Control against such "professional offenders." Six pharmacists since 1980 who were cited for "Self-Addiction" were "criminally prosecuted" by the Bureau and had their licenses suspended by the Board of Pharmacy. Yet, the Audit Council identified another case, not cited in the Bureau memorandum, in which a pharmacist diverted nine gallons of one controlled liquid and 17 pints of another controlled liquid in six months. Citing a "clear-cut instance of self-induced drug dependence," the Bureau wrote, "no criminal prosecution is contemplated, provided (he) will voluntarily submit to treatment." No evidence was found that the Board of Pharmacy was notified of this case or of the Bureau's decision.

State law allows DHEC to suspend, deny or revoke a registration upon finding that there has been a violation of the Department's rules and regulations concerning controlled substances; the Department may also levy a civil fine.

Action against violators has been inconsistent because, according to a Bureau official, the disposition of most cases is negotiated. The Bureau has no written guidelines for the imposition of sanctions. Guidelines could specify sanctions appropriate to the type and severity of the case, mitigating and/or aggravating factors, ranges of fines and policies for notification of professional boards.

Policies and Procedures Manual

The Bureau of Drug Control does not have a policies and procedures manual addressing Bureau operations. However, the Bureau is an organization responsible for complex and detailed investigations and law enforcement activities which need to be strictly controlled. There are no policies and procedures addressing:

- the apprehension, search and detention of suspects;
- the use of weapons;
- requalification for use of handguns;
- seizure and accountability of evidence;
- destruction of dated controlled drugs (agents can destroy drugs at the drugstore, in Columbia, or any other way desired);
- training and continuing education needs of agents;
- techniques for inspecting and auditing pharmacy inventories; or

- activities which warrant an administrative hearing or bringing criminal charges against a registrant.

A policies and procedures manual is generally accepted as a good management practice. For example, the Department of Corrections has detailed policies concerning various aspects of its operations. Other programs in DHEC, such as the Home Health program, have implemented policies and procedures.

Without written guidelines, agents are provided little guidance in the performance of their duties. Verbal guidelines can be misinterpreted and erroneously communicated. Bureau officials state they are in the process of formulating a policies and procedures manual.

Workload Variances

An examination of work output by DHEC drug inspectors indicated large variances in completion of assignments. The agency has not taken adequate steps to ensure inspectors complete their assignments. For example, one inspector was able to meet 629 (120%) of his assigned pharmacy inspections and conducted 53 controlled drug audits between July 1981 and March 1985. In contrast, another inspector completed 259 (54%) of his assigned inspections and conducted six controlled substance audits in the same time period. In one six-month time period this inspector completed 15 (26%) of his assigned inspections and conducted no pharmacy audits. Table 6 shows the variances in work output of drug inspectors.

TABLE 6

ANALYSIS OF WORK CONDUCTED BY DHEC DRUG INSPECTORS

JULY 1981 THROUGH MARCH 1985

Inspector	Pharmacy Inspections Assigned	Pharmacy Inspections Performed	% Completed	Full-Scope Audits[1] Conducted
a	484	259	54	6
b	483	460	95	53
c	518	416	80	47
d	523	629	120	53
e	473	364	77	9
f	475	471	99	22
g	518	365	70	24
h	447	340	76	39

[1]Audits conducted when inspections uncover problems warranting further detailed review.
Source: Audit Council, based on information from DHEC Bureau of Drug Control.

The DHEC drug control supervisor establishes work standards for each inspector. Results are reviewed each quarter. However, there are no penalties for not meeting assignments, nor are there rewards for doing more work than assigned.

Other programs in DHEC establish productivity standards which are closely monitored. For example, the Home Health program requires a certain number of visits to be made each day.

By not requiring inspectors to complete their assignments, Bureau management cannot maximize use of resources in the Drug Control section. The Bureau cannot ensure that resources are efficiently directed to stop the illegal diversions of controlled substances. In addition, it is inequitable to inspectors who are conscientious not to

hold all inspectors accountable for completing assignments. When employees are not required to complete tasks assigned, the assignments become meaningless.

Assignments are not always met because Drug Control officials have not taken steps to ensure completion. Work improvement notices have not been issued to those with low productivity. Job ratings of those with high productivity levels have been approximately the same as those with low productivity. DHEC Drug Control officials stated they need to do more to ensure assignments are met. They also stated the assignments are reasonable, and there should be no reason they cannot be met.

Equipment not Provided Agents

DHEC Drug Control inspectors and investigators are not provided equipment needed to make their jobs safer and more efficient. Although DHEC Drug Control agents arrested over 270 individuals between July 1981 and March 1985, agents are not provided radio communication equipment, surveillance equipment or handguns. DHEC drug agents are involved in "stake outs," investigations and arrests of controlled drug traffickers, and apprehension of prescription forgers. Investigations are also coordinated with the United States Drug Enforcement Administration and other law enforcement agencies to find diversions of controlled substances. Agents stated they have to borrow equipment to aid in the investigation and arrest of suspects.

Section 44-53-480 of the South Carolina Code of Laws grants DHEC statewide police power, authority for agents to carry handguns and other general law enforcement power. Communication equipment assists in effective law enforcement. Further, a 1967 South Carolina Supreme Court decision stated an employer has a "positive duty" to "furnish the servant (employee) with reasonably safe instrumentalities wherewith and places wherein to do his work" and an employer is liable to an employee for negligence for not providing basic equipment.

Without radio equipment, Drug Control personnel cannot adequately establish communications while conducting surveillance. Further, agents cannot call for assistance if an emergency situation arises. DHEC could be liable for injuries to an agent which may have been avoided with the ability to radio for help.

DHEC Drug Control personnel have requested funds for equipment at least since 1979. However, one DHEC management official stated the work performed does not warrant the need for communication equipment.

Inspection of State-Operated Pharmacies

DHEC's policy is not to inspect state-owned pharmacies unless requested by the State agency to do so. However, problems have been found with record-keeping and inventories at state-operated pharmacies since 1979. For example, in its audit of the Medical University, the Audit Council found

numerous narcotic inventory discrepancies. In 1983, the Council found record-keeping problems at Department of Mental Health pharmacies. Additionally, problems have been found at Department of Mental Retardation-operated pharmacies.

Section 44-53-500 of the South Carolina Code of Laws requires DHEC to inspect all pharmacies at least every three years. This statute does not exempt government-operated pharmacies. Private pharmacies are inspected as frequently as required by law. In 1979, the Council recommended that "Inspections of all State-operated pharmacies should be conducted according to law."

By not inspecting State pharmacies, DHEC cannot ensure that rules and regulations pertaining to controlled substances maintained by the State are followed. The agency cannot reasonably assure that controlled drugs are not illegally diverted at public institutions.

DHEC has concentrated its efforts on inspecting private pharmacies. Agency officials stated that limited resources do not allow for inspection of all registrants in a timely manner. However, if resources were used efficiently, State pharmacies could be inspected on a regular basis (see p. 86).

RECOMMENDATIONS

THE BUREAU OF DRUG CONTROL SHOULD

INVENTORY AND SECURELY STORE SEIZED

EVIDENCE. A SCHEDULE OF ALL EVIDENCE SHOULD BE MADE IMMEDIATELY AFTER THE SEIZURE. THIS SCHEDULE SHOULD BE ADDED TO THE INVENTORY OF EVIDENCE AND TURNED OVER TO THE EVIDENCE ROOM. EVIDENCE SHOULD BE PROPERLY DISPOSED OF AFTER A CASE HAS BEEN COMPLETELY PROCESSED.

IN CONJUNCTION WITH DHEC LEGAL STAFF, THE BUREAU OF DRUG CONTROL SHOULD DEVELOP ADVISORY GUIDELINES FOR THE HANDLING OF VIOLATIONS AGAINST CONTROLLED SUBSTANCE REGULATIONS AND STATUTES.

DECISIONS TO SANCTION REGISTRANTS WHICH ARE OUTSIDE ADVISORY GUIDELINES SHOULD BE A MATTER OF FORMAL RECORD.

BUREAU OF DRUG CONTROL MANAGEMENT SHOULD DEVELOP A POLICIES AND PROCEDURES MANUAL.

BUREAU MANAGEMENT SHOULD ENSURE INSPECTORS COMPLETE THEIR QUARTERLY ASSIGNMENTS AND PERFORM COMPARABLE AMOUNTS OF WORK.

DHEC MANAGEMENT SHOULD ASSESS THE EQUIPMENT NEEDS OF THE BUREAU, AS WELL AS THE POTENTIAL LIABILITIES OF THE DEPARTMENT FOR NOT PROVIDING EQUIPMENT.

DHEC MANAGEMENT SHOULD ENSURE STATE-OPERATED PHARMACIES ARE INSPECTED AT LEAST EVERY THREE YEARS.

Bureau of Environmental Sanitation

The Bureau of Environmental Sanitation is responsible for ensuring hotels, restaurants, grocery stores, campgrounds, dairy farms, bottling plants, prisons, schools and other facilities are operated in a sanitary manner in compliance with State regulations. The Bureau also reviews proposals for septic tank systems to ensure a site is suitable for wastewater disposal before a permit can be issued. Inspections and reviews are conducted primarily by sanitarians in county health departments. The following problems in the Environmental Sanitation program were found.

Restaurant Inspection Program

DHEC's restaurant inspection program, responsible for ensuring restaurants operate in a sanitary manner, was

reviewed. Records in 11 counties were examined. Although significant improvements have been made, the following problems were found.

Restaurants with Low Sanitation Scores

Three county health departments were not "downgrading" restaurants from an "A" to a "B" or "C" when the scores warranted downgrading. A sample of 50 restaurant files in three counties indicated that 11 were not downgraded after scoring in the "B" or "C" range for at least the second time in a year.

For example, between November 1983 and October 1984, one restaurant scored an 84, 85, 78 and 83 on sanitation inspections. These scores would warrant a grade of "B" to be posted. However, the establishment was able to keep its "A" rating during this time period. Additionally, in one county, follow-up was not conducted for three facilities when required, and five facilities did not have an inspection on file for 17 months or longer.

Regulation 61-25 outlines grades for food service establishments:

> Grades of establishments shall be as follows:
>
> Grade A - An establishment having a rating score of 88-100 points.
> Grade B - An establishment having a rating score of 78-87 points.
> Grade C - An establishment having a rating score of 70-77 points.

However, regulations allow an "A" grade to be maintained if the restaurant scores below an 88, if the facility has an acceptable inspection history. A good history is defined by DHEC as a score of 85 or higher on three of the last four inspections. Further, this regulation also calls for restaurants to be inspected at least annually.

When facilities with low sanitation scores are not downgraded, the public is not provided the true sanitation rating of the restaurant. There is less incentive for restaurants to follow DHEC regulations if DHEC is reluctant to downgrade them. Further, this practice is unfair to other restaurants that have been downgraded after a low score.

According to DHEC officials, inspectors may use some discretion when determining if a restaurant has a "good inspection history." However, those not downgraded include some consistently scoring below the "A" requirements.

Restaurant Managers not Tested or Trained

Health departments in two counties were not requiring restaurant managers to take a sanitation test or training after being downgraded twice in a 12-month period. This is required to ensure the manager is knowledgeable of proper sanitation requirements. Downgrading a restaurant from an "A" to a "B" or "C" means the sanitation practices have declined to warrant a lower grade.

A random sample of 31 restaurant files in two counties indicated that nine were downgraded at least twice in a 12-month period. However, there was no evidence in the files to indicate the managers either attended a training session or completed an examination as required. For example, one restaurant was downgraded to either a "B" or "C" on four routine inspections between January 1984 and January 1985. No testing or training was provided this manager.

Regulation 61-25 states, in part:

> If an establishment has been downgraded on two occasions during a 12-month period, or if the permit has been suspended the manager shall attend a training session in food sanitation conducted by the health authority or satisfactorily complete an examination based on this regulation.

Other counties reviewed by the Council were testing managers of restaurants downgraded twice in a year.

By not providing testing or training, DHEC cannot reasonably assure that restaurants with bad sanitation histories know what is necessary to improve. Testing or training would help ensure that restaurant managers know the essentials of good sanitation practices to protect the public.

Although county officials stated that training sessions were sometimes conducted, there was no evidence in the files that training was provided these nine facilities. These counties did not keep a list of downgraded restaurants to determine if a restaurant had been previously downgraded.

Improvement in Overall Sanitation of Restaurants

The sanitation of restaurants in South Carolina has improved since FY 74-75. DHEC Quality Control records indicate that restaurants averaged a score of 71 in FY 74-75 (100 points is a perfect score). The score improved to 77 in FY 76-77 and was up to 86 by FY 82-83. DHEC officials expect further improvement when the 1985 review is completed.

DHEC Quality Control staff randomly inspects a sample of restaurants in all counties periodically. These inspections are conducted to ensure county workers are properly inspecting, scoring and identifying deficiencies in restaurants. They also determine compliance with food service regulations.

DHEC officials attribute the improvement in sanitation to several factors. First, training programs for inspectors emphasize determination of deficiencies, and training programs have improved. Second, the quality of inspections conducted by county health departments has improved. County officials are better educating restaurant managers as to proper sanitation practices. Further, State Quality Control personnel work with inspectors to better train them in identifying problem areas.

RECOMMENDATIONS

RESTAURANTS WITH LOW SANITATION SCORES SHOULD BE DOWNGRADED, IF THE FACILITIES

HAVE A QUESTIONABLE INSPECTION HISTORY. COUNTY HEALTH DEPARTMENTS SHOULD ENSURE THE PROPER GRADE IS POSTED ON RESTAURANTS.

COUNTY HEALTH DEPARTMENTS SHOULD REQUIRE TESTING OR TRAINING SESSIONS AS REQUIRED BY REGULATION 61-25. A SCHEDULE OF DOWNGRADED RESTAURANTS SHOULD BE MAINTAINED. COUNTY OFFICIALS SHOULD PROPERLY DOCUMENT TESTING OR TRAINING PROVIDED RESTAURANT MANAGERS.

Dairy Farm Regulations

DHEC is responsible for inspecting dairy farms, milk haulers and processing plants to ensure the products meet sanitary standards. The following problems were found.

Enforcement of Dairy Farm Regulations

Enforcement of dairy farm regulations needs improvement. The agency has not taken prompt, strict and consistent enforcement action when deficiencies are found. In a sample of 36 farm records, 20 (55%) had repeat deficiencies. DHEC sent letters to only five farmers warning them of permit suspension, if deficiencies were not immediately corrected. These five farms had similar deficiencies to those that were not sent warning letters.

One farm had cleanliness violations of the milking station eight of the last 11 quarterly inspections, four of which were consecutive. Other sanitation deficiencies were found. However, a warning letter was not sent and the permit was not suspended. Another farm had four separate repeat deficiencies pertaining to sanitation, but was not warned to correct the problems. In contrast, after one repeat deficiency, one farm was warned that its permit would be suspended if the problems were not immediately corrected. Another farm had its permit suspended for not correcting deficiencies.

DHEC Regulation 61-34.1 calls for strict enforcement of dairy farm regulations. This regulation states that:

> ...a dairy farm...shall be subject to suspension of permit, and/or court action, if two successive inspections disclose violation of the same requirement.

and that:

> ...strict enforcement of this regulation leads to a better and friendlier relationship between DHEC and the milk industry than does a policy of enforcement which seeks to excuse violations and defer penalty thereof.

In enforcing dairy farm regulations, DHEC has treated dairy farmers inconsistently. Some have been warned about deficiencies, and some have had their permits suspended while others with similar problems have had no punitive action imposed. Further, when farmers are not required to correct sanitation deficiencies, the quality of milk produced may be unsafe. The agency cannot adequately

protect the public health and safety without taking strict and consistent enforcement action when deficiencies are found.

According to DHEC officials, inspectors are allowed to use their judgment to determine enforcement action needed to obtain corrective action, although regulations call for strict enforcement. Further, the agency does not have an enforcement policy for inspectors to follow.

Pick-up and Sampling Procedures

DHEC has not inspected milk haulers' pick-up and sampling procedures as required. In a sample of 12 licensed milk haulers, six had not been inspected within 24 months as required. One had not been reviewed for approximately 44 months. Pick-up and handling procedures are reviewed to ensure that the driver knows how to handle milk and take samples for analysis without contaminating it.

Regulation 61-34 states, in part, that DHEC shall:

> Inspect each hauler's pick up and sampling procedures at least once every twenty-four months.

These regulations also state this frequency "is a legal minimum."

By not reviewing pick-up and sampling procedures as required, DHEC cannot ensure milk haulers are properly handling milk. Also, DHEC cannot ensure proper samples will be taken to test the quality of farm-produced milk.

When asked why drivers were not reviewed as required, DHEC officials stated that they sometimes have difficulty catching drivers on their routes. Also, some drivers are part-time or relief drivers who do not work the same hours as DHEC inspectors.

RECOMMENDATIONS

DHEC MANAGEMENT SHOULD STANDARDIZE ENFORCEMENT OF DAIRY REGULATIONS BY DEVELOPING AN ENFORCEMENT POLICY. SUSPENSIONS OF PERMITS TO SELL MILK SHOULD BE ENFORCED WHEN DEFICIENCIES ARE NOT CORRECTED.

DHEC SHOULD ENSURE MILK HAULERS PICK-UP AND SAMPLING PROCEDURES ARE REVIEWED AT LEAST EVERY 24 MONTHS.

General Sanitation

DHEC's General Sanitation Division is primarily responsible for inspecting mobile home parks, schools, motels and other facilities. Further, the division is responsible for the septic tank permitting program. Inspections are conducted by county officials. The following problems were found.

Enforcement of Mobile Home Park Regulations

The enforcement of regulations pertaining to mobile home parks is inadequate. DHEC has not taken steps to ensure park owners correct deficiencies found by health inspectors. A sample of 135 mobile home park inspections conducted in 11 counties indicated that 59 (44%) parks were cited for repeat deficiencies of mobile home park regulations. However, DHEC had not taken adequate action to ensure the deficiencies were corrected. These deficiencies can affect the health and safety of mobile home park residents.

For example, DHEC inspected one park in 1980 and found several violations, including an unapproved water system. The inspector stated the water system must be approved by the Division of Environmental Quality Control. The inspector noted this deficiency each year from 1981 to 1984. As of January 1985, the water system was not approved, a violation of DHEC regulations.

In another park, an inspector found that electrical lines to mobile homes were on the ground, oil drums were not properly placed, and sewer inlets were not properly capped. No action had been taken to correct these violations of DHEC regulations over three consecutive years.

One mobile home park was cited for repeat problems with sewage on the ground. No follow-up or enforcement action was taken.

A review by DHEC officials of one district's mobile home park inspection program found inadequate enforcement and stated that "warning letters, follow-up inspections, and legal action were non-existent." This review recommended stronger enforcement of regulations.

State Regulation 61-40, Section 2.5 states:

> Whenever, upon inspection of any mobile home park, the health authority finds that conditions or practices exist which are in violation of any provision of these regulations, the health authority shall give notice in writing to the owner or agent that unless such conditions or practices are corrected within a reasonable period of time specified in the notice by the health authority, the permit will be suspended. At the end of such period, the health authority shall reinspect such mobile home park and, if such conditions or practices have not been corrected, he shall suspend the permit and give notice in writing of such suspension to the owner or agent. [Emphasis Added]

By not ensuring that deficiencies are corrected, DHEC cannot adequately safeguard the health and safety of occupants of mobile home parks and the general public. Additionally, park owners who abide by DHEC regulations are treated inequitably.

DHEC officials stated that mobile home park inspections have been a low priority. County officials have also stated that time does not always permit proper follow-up on problem areas, and State regulations do not specify a "reasonable" period of time to allow for corrective action. However, one county devised a system for placing in priority order inspections based on their possible "public health threat."

This system resulted in more frequent inspections of problem parks.

Septic Tank Permitting Program

DHEC has not ensured that deficiencies in county septic tank permitting programs are corrected. Identified deficiencies include: improper soil sampling; improper identification of soils; improper determination of site suitability; and not ensuring that adequate drain lines are installed. These problems could cause drinking water contamination and affect public health and safety.

DHEC State Office personnel began surveying district programs in 1982 to determine if regulations and policy were being consistently followed. The Council examined 137 State Office reviews of septic tank permit approvals in 11 counties. The following table outlines the deficiencies cited by DHEC officials in the county septic tank programs.

TABLE 7

ANALYSIS OF DEFICIENCIES IN SEPTIC TANK SYSTEMS

FOUND BY DHEC INSPECTORS BETWEEN 1982 AND 1984

County	Number of Septic Tank Reviews Conducted	Number of Site Evaluation[1]		Number of Times Required Data Not Recorded For[2]		Number of Tanks Installed in Unsuitable Soil or Improperly Installed
		Sketch Deficiencies	Soil Boring Deficiencies	Recommended Installations	Actual Installations	
1	12	10	10	11	11	5
2	13	8	1	5	13	0
3	12	0	8	3	12	3
4	12	4	9	8	12	0
5	12	12	11	6	12	0
6	15	15	7	15	15	3
7	12	12	4	12	12	3
8	13	13	13	13	11	4
9	12	4	5	5	12	3
10	12	4	3	3	12	0
11	12	3	1	8	12	1
Totals	137	85	72	89	134	22
% of Total	100%	62%	53%	65%	99%	16%

[1] Used, in part, by DHEC to determine suitability of site for septic tank.
[2] Used by DHEC to document recommended proper installation of system and actual installation.
Source: DHEC survey records.

Table 7 also indicates that 16% of the septic tanks approved in these counties were in unsuitable soil or improperly installed in the seasonal high water table.

State Regulation 61-56 and DHEC policy outline requirements county health officials must follow to ensure a site is capable of accommodating a septic tank. DHEC documents further explain that:

> ...there is no substitute for conducting a thorough site evaluation in every case. It is impossible to adequately predict the suitability of a given site for the utilization of an individual sewerage disposal system in the absence of a properly conducted site evaluation.

By not adequately and thoroughly evaluating the suitability of sites for wastewater disposal, DHEC cannot ensure that only appropriate sites are approved. DHEC State Office personnel found that 11 counties had allowed 16% of the systems examined to be improperly approved. When septic tank systems are installed in unsuitable soil or in the seasonable high water table, groundwater can be contaminated and the health of the public can be endangered. Further, homeowners could experience wastewater disposal difficulties when a system incapable of proper disposal is approved.

Deficiencies in county individual wastewater disposal programs continue, in part, because DHEC has not implemented a system to ensure deficiencies are corrected. The State Office does not require districts to submit corrective action plans outlining steps to remedy deficiencies. It is left to the district to ensure that appropriate corrective

action is taken. However, in one district where a follow-up was conducted, DHEC State Office personnel found deficiencies which "continue to be a problem."

RECOMMENDATIONS

COUNTY HEALTH DEPARTMENTS SHOULD ENFORCE MOBILE HOME PARK REGULATIONS. DHEC OFFICIALS SHOULD CONSIDER IMPLEMENTING A SYSTEM WHEREBY PARKS WITH THE MOST SERIOUS PUBLIC HEALTH THREAT ARE INSPECTED AND FOLLOWED UP MORE FREQUENTLY.

DHEC STATE OFFICE PERSONNEL SHOULD REQUIRE DISTRICT OFFICIALS TO PROVIDE A CORRECTIVE ACTION PLAN OUTLINING METHODS TO CORRECT INDIVIDUAL WASTEWATER DISPOSAL SYSTEM DEFICIENCIES FOUND BY DEPARTMENT SURVEYORS. THE DEPARTMENT SHOULD ENSURE DEFICIENCIES ARE CORRECTED IN A TIMELY MANNER.

Division of Sexually Transmitted Disease Control

DHEC's Division of Sexually Transmitted Disease (STD) Control has clinics in each county to screen and treat

infected individuals. STD investigators interview patients to identify their contacts so that they can be located and treated. STD education and awareness programs are also conducted. In 1984, South Carolina had the fifth highest rate of gonorrhea and the sixth highest rate of syphilis in the United States.

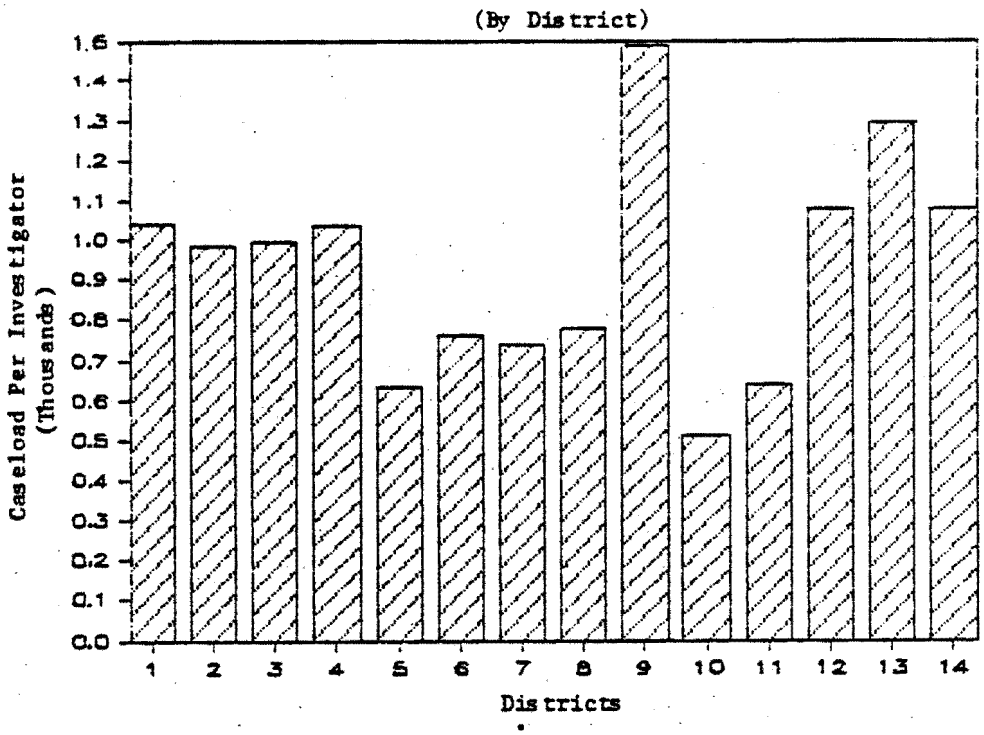
Questionable Allocation of Personnel

Variations in staffing levels in the STD program district offices indicate a questionable allocation of personnel. According to DHEC records, STD investigator caseloads in some districts were nearly 300% greater than in other districts. For example, in 1984, one district had 1,492 units of work per investigator while another district had only 508 units (see Graph 3). A unit of work consists of a number of investigations made, based on the length of time it takes to conduct an investigation and the STD priority system.

GRAPH 3

STD PROGRAM CASELOADS PER INVESTIGATOR

BY DISTRICT, CY 1984



Source: Audit Council, based on information from DHEC Division of Sexually Transmitted Disease Control.

Allocation by region instead of by district would help even the caseload among STD investigators. The STD program divides the State in four regions and investigators are assigned to districts within the regions. Although caseloads varied nearly 300% within districts, they varied less than 38%, from 1982 to 1984, between regions. Investigators cannot move within the region on an unrestricted basis to even the caseloads.

Personnel should be allocated so that each investigator has approximately the same caseload. When there is not enough staff to meet staffing standards, caseloads should still be approximately equal. Efficient allocation of staff helps ensure consistent coverage of caseloads statewide.

Other State agencies have attempted to equalize workloads. For example, the Department of Highways and Public Transportation has tried to equalize the workloads of motor vehicle specialists by assigning relief workers to each district office. These relief workers travel to field offices within the district where additional personnel are needed to process motor vehicle documents.

STD management has developed neither staffing standards nor productivity standards to assist in allocating personnel (see p. 152). STD management stated that because the incidence of sexually transmitted disease varies from year to year and outbreaks are difficult to predict, standards are impractical.

When personnel are not properly allocated, there is less assurance the incidence of sexually transmitted diseases will decrease. Further, it is unfair to districts that have the largest caseloads per investigator because investigations cannot be done on many cases.

In addition, the STD program spent $75,000 in FY 84-85, in part, to send investigators from one district to other districts to aid overloaded investigators. Travel savings could result if some personnel are assigned regionally.

Investigations of Alleged Misconduct

DHEC has not adequately investigated three charges of misconduct against investigators in the STD program. The charges have been investigated by STD division personnel and not by an independent third party. Two investigators were accused of making improper advances to clinic patients. A third investigator was charged with using his position to obtain the name and address of a person under the pretense of conducting an investigation. No investigative files were maintained for two of the three cases.

When allegations of misconduct are received by supervisory personnel, they should be adequately investigated. The DHEC disciplinary guide states that supervisors are responsible for documenting all instances of personal misconduct. The guide also recommends suspension or termination for indecent, immoral or lewd conduct.

Objective, documented investigations are necessary not only for the agency to determine if improprieties occurred, but also for the agency to take appropriate action. If some supervisors do not document investigations of misconduct, DHEC cannot be certain that discipline is administered in a fair and consistent manner.

STD management did not follow DHEC guidelines for the investigation of employee misconduct. Appropriate documentation of investigations were not maintained and disciplinary guidelines may not have been followed.

RECOMMENDATIONS

THE DIVISION OF SEXUALLY TRANSMITTED DISEASE CONTROL (STD) PROGRAM OFFICIALS SHOULD ALLOCATE STD INVESTIGATORS SO THAT THE CASELOADS ARE APPROXIMATELY THE SAME SIZE. THIS COULD BE DONE BY ASSIGNING INVESTIGATORS TO REGIONS RATHER THAN DISTRICTS.

STD MANAGEMENT SHOULD ENSURE THAT ALLEGATIONS OF EMPLOYEE MISCONDUCT ARE INVESTIGATED ACCORDING TO DHEC DISCIPLINARY POLICY.

Women, Infants and Children (WIC) Program

DHEC is responsible for administering the federal Women, Infants and Children (WIC) Program. The WIC Program provides health assessment and referral, nutrition education and provides supplemental foods to women, infants and children under the age of five who are at nutritional risk.

Vendor Regulations for WIC Program

DHEC cannot adequately enforce conditions of vendor participation in the Special Supplemental Food Program for WIC. DHEC contracts with food vendors (stores) to redeem WIC coupons for particular food items. DHEC authority to

enforce federal regulations has been questioned by vendors, and there are no State regulations which outline procedures and guidelines to be followed by WIC vendors. Additionally, there is no provision allowing DHEC to fine vendors for program violations, such as providing cash for WIC vouchers or providing beer or wine in WIC transactions.

According to DHEC officials, the most severe penalty that has been imposed on a violating vendor has been temporary disqualification from the program. Since January 1984, ten vendors have appealed disqualifications, questioning DHEC's vendor policies and procedures.

Federal law requires DHEC to establish policies to determine the type and severity of sanctions to be imposed on program violators. North Carolina has adopted state vendor regulations to ensure adequate enforcement of WIC program requirements. Further, South Carolina has adopted statutes and regulations for other federal programs, such as Aid to Families with Dependent Children (AFDC) and Food Stamps, to provide for enforcement of program regulations and the assessment of fines for program violations.

DHEC officials estimate that approximately $117,000 will be obtained by vendors through program abuse in FY 84-85. However, DHEC officials also stated that it is difficult to recoup funds lost through overcharges because overcharges are generally made frequently and for small amounts. The prospect of receiving a fine would serve as a disincentive to vendors overcharging the program. In

addition, State regulations would establish DHEC's authority to enforce WIC program regulations and outline participation requirements for vendors.

In May 1983, federal regulations went into effect that required states to establish enforcement units to monitor WIC program compliance. The General Assembly has not considered proposed WIC regulations since federal regulations went into effect.

WIC Follow-up Inspections

The WIC program compliance unit does not make adequate follow-up inspections on vendors that violate program requirements. Follow-up visits are not made in a timely manner and DHEC does not review vendor records to verify that deficiencies were corrected within 14 days.

The Audit Council sampled 25 (33%) of 75 follow-up visits made between June 1984 and May 1985. The average time period between a monitoring visit to a violating vendor and a follow-up visit was 68 days. One vendor did not receive a follow-up inspection for 123 days. The WIC compliance unit does not have a formal time standard for making follow-up visits.

When vendors are found to be violating WIC stocking standards, letters sent by the WIC compliance unit require compliance within 14 days. According to federal regulations and the contracts signed by participating vendors, WIC personnel have the authority to review a store's invoices to

verify the order and receipt of the type of food that was not in stock. However, invoices are not routinely reviewed to verify that food was ordered and received within 14 days as required. Verification of prompt ordering of out-of-stock foods by the vendor ensures that WIC program objectives are met.

Approximately seven (28%) of 25 vendors cited for stocking violations did not have the problem corrected at the time of the follow-up inspection. Vendors that do not stock items required by WIC create a hardship for WIC participants. Program regulations do not allow the issuance of rain checks. As a result, a participant may have to go to another store to redeem the WIC voucher. Further, vendors are less likely to comply within 14 days if they know that a follow-up inspection will not be made for 70 days and that verification of a prompt order will not be attempted.

RECOMMENDATIONS

THE GENERAL ASSEMBLY SHOULD CONSIDER ADOPTING STATUTES AND/OR REGULATIONS WHICH OUTLINE PROCEDURES AND GUIDELINES TO BE FOLLOWED BY THE WOMEN, INFANTS AND CHILDREN PROGRAM VENDORS, INCLUDING A PROVISION FOR THE ASSESSMENT OF A FINE FOR VIOLATIONS.

DHEC SHOULD MAKE PROMPT FOLLOW-UP INSPECTIONS OF STORES IN VIOLATION OF THE WOMEN, INFANTS AND CHILDREN PROGRAM STANDARDS AND ROUTINELY REVIEW STORE INVOICES TO DETERMINE IF THE STORE COMPLIED WITHIN 14 DAYS AS REQUIRED.

Audits of Cancer Clinics Needed

DHEC's nine cancer clinics are not audited semi-annually as required by DHEC policy. As of August 1985, six clinics had not been audited in approximately three years. Three had not been audited in over one year.

DHEC spends over $1 million annually to treat indigent clients with cancer, primarily on an outpatient basis. Regular audits of cancer clinic records are needed to determine if clients meet financial criteria for State aid, if continued treatment at State expense is needed, and if other program requirements are met.

For example, one audit found a client had not had a recurrence of cancer since 1958, but was still being cared for at State expense (against DHEC policy). Other audits found clinics were not properly determining eligibility of clients served at State expense, and clients could have been served by private physicians to make room for other indigent clients.

DHEC's cancer program audit summary requires that the "Central office will audit each clinic at least semi-annually." Also, DHEC program guidelines require that patients be discharged from clinics if there is no recurrence of cancer in five years and they can receive follow-up elsewhere.

Without audits, DHEC cannot determine if program objectives and requirements are met. When clients receive services at DHEC clinics which may be provided by their private physicians, State funds are not made available for other cancer patients needing services.

According to program officials, audits were temporarily discontinued due to staffing constraints, but are scheduled to be continued in FY 85-86.

RECOMMENDATION

DHEC'S CHRONIC DISEASE DIVISION SHOULD ENSURE THAT AUDITS OF CANCER CLINIC RECORDS ARE CONDUCTED REGULARLY.

CHAPTER IV

HEALTH FACILITIES AND SERVICES REGULATIONS

The Division of Health Facilities and Services Regulations is responsible for determining if new or additional health projects, such as hospitals and nursing homes, are needed. Also, this Division is responsible for licensing facilities and enforcing regulations pertaining to health facilities. Additionally, the Division awards a limited number of scholarships to medical students who contract to practice in rural locations and regulates emergency medical services provided throughout the State.

Health Facility Planning and Approval Process

DHEC's process for planning and approving health facilities was examined. Federal regulations currently require states to maintain a review process to determine if proposed new health services are needed. However, federal regulations may be relaxed in the future to allow for open competition in the health care industry. The federal government's method for reimbursing hospitals has been changing, to foster competition. If complete deregulation is allowed, the State should examine discontinuing the Certificate of Need (CON) program. However, as long as DHEC operates a CON program, it needs to be administered

consistently and fairly. The following problems were found with DHEC's CON program.

Approval of Medical Projects

A review of the DHEC Board's approval of medical projects indicated several areas of concern. Between January 1982 and September 1984, DHEC staff denied 12 applications for new hospital beds or services. These projects were denied, in part, because the State Health Plan did not indicate a need for the projects. However, five of these denials were overturned by the DHEC Board, four are under appeal, and three were not appealed.

The following are examples of projects determined unnecessary by staff but approved by the Board:

- DHEC staff denied an application for a new, 100-bed hospital because the State Health Plan indicated there was already an excess of beds in that area. The health systems agency responsible for reviewing projects and making recommendations to DHEC, recommended denial of this project. However, the Board overturned staff's denial and allowed the hospital to be built.

- One hospital applied to purchase a whole-body computed tomography (CT) scanner costing over $1 million. DHEC staff denied the project because the State Health Plan allowed for only one CT scanner in that area, which was available at another hospital. The DHEC Board then approved the purchase of the scanner.

- One facility requested approval to build additional psychiatric beds. DHEC staff denied approval because the State Plan projected surplus beds in that area. The Board, however, allowed the extra beds to be built.

- One hospital was denied approval to conduct open heart surgery because the State Health Plan did not indicate a need. However, the Board allowed the services to be provided.

- One hospital requested permission to expand services not needed according to the State Health Plan. The Board overturned staff's denial of $9 million worth of construction.

Title 42, Section 123:403 of the Code of Federal Regulations states:

> ...each decision of the State agency to issue a certificate of need must be consistent with the State Health Plan...except in emergency circumstances that pose an imminent threat to public health.

Section 44-7-320 of the South Carolina Code of Laws requires a certificate of need (CON) to be issued only if the project is consistent with the State Health Plan.

Approving health projects which are not needed is not in accordance with State and federal law. The Board has authority to issue exceptions to the State Health Plan given an emergency situation which poses an imminent threat to public health and safety. However, "emergency circumstances" have not been defined, and are left to the Board's discretion. The Board is not required to document emergency situations.

In April 1984, the Statewide Health Coordinating Council, responsible for developing the State Health Plan, recommended legislation to require the Board to document in writing the basis for approving projects not consistent with the State Health Plan.

Attachment of Conditions to Projects

The DHEC Board is attaching conditions to certificates of need, without the legal authority to do so. The Board has approved projects under the condition that applicants agree to Board conditions or changes in the application. In addition, the Board has allowed portions of proposals and required services to be added which were not requested. However, the agency has authority to grant or deny an application but not to amend or add conditions to proposals. In FY 83-84, the DHEC Board overturned three staff project denials. The overturned projects were approved with the restriction that Board conditions would be met.

For example, DHEC staff denied a proposal for a new hospital in one county because the State Health Plan indicated an excess of beds. The Board approved the request under the condition that obstetrical services be added and that a specific amount of indigent care be provided. Another applicant requested approval to add 108 beds and to remodel portions of the building. The Board allowed the hospital to remodel and "shell in" space for the beds but did not allow the beds to be completed.

State Regulation 61-15, Section 402, allows the Board to approve, deny or remand to staff appeals by applicants. Neither State law nor regulation allows DHEC to add services, amend or place conditions on applications. Title 42, Section 123.408(a)(1) of the Code of Federal Regulations states:

> ...The State Agency may not make its final decision subject to any condition unless the condition... established... [is] in accordance with an authorization under State law.

By placing conditions on proposals without proper statutory authority, DHEC does not have legal authority to ensure conditions are met.

According to DHEC records, the Board began placing conditions on certificates of need when it became "concerned about the problems of accessibility and indigent care in South Carolina." However, State law does not provide for conditional certificates of need.

System for Reviewing Project Applications

DHEC's system for reviewing certificate of need applications for hospitals and other health services needs improvement. DHEC has not developed criteria for comparing competing applications for a health service. The agency does not have an objective system for comparing the strengths and weaknesses of applicants competing for approval of the same service.

In addition, DHEC does not have objective standards for determining when a project meets the "community or public need." DHEC policy allows disapproval of a project if "those persons reviewing the proposal feel that any criteria (location, cost, patient charges, etc.) not satisfied are important enough to merit disapproval." Agency officials have discretion in determining if a proposal meets the

public need because need is not based on regulations or written criteria.

For example, the 1982 State Health Plan indicated a need for 88 hospital beds in one area. Four hospitals applied for a certificate of need to serve the public. DHEC did not use objective criteria for comparing the projects to determine which proposal would best serve the public. Further, all applications were denied because DHEC determined they did not meet the public "need." DHEC did not outline specific reasons to the applicants for denying the projects, and the type of project DHEC would consider suitable is unclear.

In 1983, a DHEC Hearing Officer reviewed, in part, DHEC's system for reviewing project applications. The officer recommended DHEC establish "an objective system by which competing applications for certificates of need be evaluated and weighed..." Also recommended was "an objective method for determining when a CON application either satisfies or fails to satisfy the public or community's need." Further, the Hearing Officer stated that DHEC's review process is "legally deficient."

An objective system to compare competing applications is necessary to ensure that the most deserving applicant will be approved. Further, when DHEC does not objectively specify what constitutes public "need," applications can be denied on a subjective and nonfactual basis. Applicants do not know on what basis their proposals will be judged.

DHEC officials stated that an informal method of comparative reviews is used, although there is no formal system in place for such review. Subjective determinations of what constitutes "public need" are performed because DHEC policy allows staff to subjectively determine what factors are important enough to constitute public need.

RECOMMENDATIONS

THE DHEC BOARD SHOULD PROVIDE A WRITTEN DETERMINATION FOR ANY EMERGENCY SITUATION SERIOUS ENOUGH TO WARRANT AN EXCEPTION TO THE STATE HEALTH PLAN.

THE DHEC BOARD SHOULD APPROVE ONLY PROJECTS WHICH ARE CONSISTENT WITH THE STATE HEALTH PLAN UNLESS THERE IS A WARRANTED EXCEPTION.

THE DHEC BOARD SHOULD DISCONTINUE ISSUING CONDITIONAL CERTIFICATES OF NEED. IF THE BOARD DETERMINES CONDITIONAL CERTIFICATES OF NEED ARE WARRANTED, STEPS SHOULD BE TAKEN TO AMEND STATE REGULATIONS.

THE DHEC BOARD SHOULD CONSIDER ADOPTING A FORMAL, OBJECTIVE SYSTEM FOR COMPARING

COMPETING APPLICATIONS FOR CERTIFICATES OF NEED.

THE DHEC CON STAFF SHOULD ESTABLISH AN OBJECTIVE METHOD FOR DETERMINING WHEN AN APPLICATION SATISFIES THE "PUBLIC NEED." APPLICANTS SHOULD BE INFORMED IN WRITING OF SPECIFIC REASONS WHY THEIR PROJECTS ARE DENIED.

Regulation of Health Facilities

Enforcement of health facilities' regulations was examined and the following problems were found.

Enforcement of Health Facility Regulations

The Department of Health and Environmental Control is not adequately enforcing minimum licensure regulations for nursing homes and hospitals licensed by the agency. As a result, the health and safety of patients may be endangered. DHEC has not imposed monetary penalties on facilities found to have repeat violations of the minimum licensure regulations.

The Council reviewed 34 (15%) of 222 hospital and nursing home licensing files for the period November 1982 through November 1984. Fourteen (41%) of the 34 facilities were found by DHEC inspectors to have 61 repeat Class I

violations during their last two inspections. These facilities could have been fined at least $30,500 for repeat deficiencies cited by DHEC.

Class I violations are those which "present an imminent danger to the patients or residents of the facility or a substantial probability that death or serious physical harm will result therefrom." [Emphasis Added] They include fire hazards, medication deficiencies and staff shortages. The following table outlines the deficiencies found by DHEC in 34 facilities during their last two licensing inspections.

TABLE 8

DEFICIENCIES FOUND BY DHEC INSPECTORS AT 34 FACILITIES

NOVEMBER 1982 THROUGH NOVEMBER 1984

Type Violation	Violations	Repeat Violations	Fines Imposed by DHEC
Class I	155	61	0
Class II (a)	213	6	0
Class III (b)	59	0	0

(a) Class II violations are those which the Department determines have a direct or immediate relationship to the health, safety or security of the facilities, patients or residents.

(b) Class III violations are those not classified as serious.

Source: Legislative Audit Council review of DHEC records.

In order to deter violations, appropriate action against those facilities which violate minimum licensure standards needs to be taken. DHEC Regulations 61-17, 61-16

and 61-14 state that a Class I violation shall be abated or eliminated immediately, and is subject to a civil penalty not less than $100 and not exceeding $500. Class II violations are subject to penalties of $50 to $250 for each violation. DHEC's foreword pertaining to health facility regulations states that "These standards are minimum and hospitals and nursing care facilities should endeavor to exceed these minimum requirements."

By not taking action against facilities found violating minimum standards, DHEC cannot reasonably assure that health facilities provide the minimal care required by law. By not adequately enforcing minimum standards, patient care in health facilities could be questionable.

According to DHEC officials, no agency policies or standards outline when civil penalties should be imposed. It is left to the discretion of inspectors to recommend if a facility should be fined for violations detected during an inspection.

Services not Provided Nursing Home Patients

The Council reviewed DHEC inspection of care reports and found Medicaid patients in nursing homes are not receiving services as required by federal regulations. These problems exist because DHEC has not ensured that deficiencies found by inspectors are corrected. These deficiencies could affect the health and safety of the patients.

Inspection of care surveys consist of a review by DHEC of each Medicaid recipient in a long-term care facility. This review is conducted to determine the appropriateness of placement and quality of the recipients' care and service in the facility.

The Council reviewed 20 (16%) of 128 nursing home files. The following are examples of services not provided certain Medicaid clients in nursing homes.

- Deficiencies concerning medications/treatments not provided as ordered by physicians were found in 18 (90%) of 20 facilities for two consecutive years.
- Deficiencies concerning patients not being examined by their physicians as needed were found in 13 (65%) of 20 facilities for two consecutive years.
- Deficiencies concerning nursing services ordered but not provided Medicaid clients were found in 13 (65%) of 20 facilities for two consecutive years.

In two facilities, DHEC found that patients were not receiving medications ordered by their physicians because the nursing home did not have them available. DHEC did not follow up to determine if the nursing homes took action to ensure patients received their ordered medications.

DHEC requires nursing homes to submit corrective action plans stating procedures for correcting deficiencies. However, the agency does not follow up to ensure the plans are implemented. The agency can take steps to disallow nursing homes from receiving Medicaid funding if life and safety deficiencies are not corrected. When asked why follow-up inspections are not conducted, DHEC officials stated such reviews would begin in early 1985.

Title 42, Section 456.613 of the Code of Federal Regulations requires that deficiencies found by DHEC during their "inspection of care" reviews be corrected by the nursing homes. Further, Section 456.652 states that reductions in federal funding will be made if requirements concerning care plans, utilization review, recertifications and other areas are not met for each Medicaid recipient.

DHEC policy requires corrective action plans that "must respond to each specific deficiency and should also include new policies and procedures to be implemented...to prevent the recurrence of the deficiencies noted."

By not ensuring that deficiencies concerning the health of nursing home clients are corrected, the agency cannot adequately ensure that patients are receiving quality and necessary care. When patients do not receive medications ordered by their physicians, receive the wrong medications or are not examined by physicians as needed, their health could be endangered. Further, the State could lose federal funding when action to ensure compliance with federal regulations is not taken.

RECOMMENDATIONS

THE DHEC BOARD SHOULD ADOPT GUIDELINES FOR DETERMINING WHEN FINES WILL BE IMPOSED ON HEALTH FACILITIES FOR VIOLATIONS OF LICENSING STANDARDS.

DHEC MANAGEMENT SHOULD CONDUCT TIMELY FOLLOW-UP INSPECTIONS ON FACILITIES FOUND TO HAVE DEFICIENCIES WHICH COULD AFFECT THE HEALTH AND SAFETY OF PATIENTS. IF ACTION IS NOT TAKEN TO CORRECT DEFICIENCIES, DHEC SHOULD INITIATE PROCEDURES TO DECERTIFY THE FACILITY FROM PARTICIPATION IN THE MEDICAID PROGRAM.

Rural Health Scholarship Program

DHEC's Rural Scholarship Program was enacted to help alleviate the shortage of doctors in rural areas in South Carolina. The agency provides a limited number of scholarships to medical and dental students who contract to practice in a rural community (defined as less than one doctor per 2,000 residents) after graduation. The recipients must practice one year in an approved location for each year they receive a scholarship, with a maximum of three years service. Scholarship recipients who decide not to practice in an approved rural area are required by law to repay DHEC three times the scholarship amount plus 7% interest. If the Board determines there is "good cause" not to practice in a rural location, State law requires the scholarship amount plus 7% interest to be repaid. After Council review, certain aspects of the scholarship program

were legislatively amended. The following problems can still occur under the amended laws.

Recipients not Practicing in Rural Locations

Some medical students receiving State scholarships by agreeing to locate in rural areas are not practicing in rural locations as required. Of the 33 scholarship recipients between FY 75-76 and FY 83-84 now practicing in South Carolina, six (18%) have been allowed by DHEC to practice in non-rural locations. These recipients were not required to repay the scholarship funds as required by law. These scholarships cost the State over $100,000 and six scholarship positions.

For example, to satisfy his scholarship obligation, one doctor requested a variance to allow him to practice in an urban location. This location already had over 30 practicing physicians and a doctor/population ratio of 1:708. DHEC allowed this variance. Another doctor received permission to practice in a location with a doctor/population of 1:900, and with over 20 physicians. These and other requests to serve non-designated areas have been approved although over 20 communities in the State have no physicians. One community with 7,000 residents has no doctors.

The DHEC Board did not have authority to allow doctors to serve in non-designated locations without repaying the scholarship funds. Section 59-111-560 of the South Carolina

Code of Laws required recipients who default on their contract to repay three times the scholarship amount plus 7% interest. If the Board finds there is justifiable cause, the scholarship must be repaid plus 7% interest. Recently amended legislation allows waivers if there is a critical need for doctors in non-approved areas.

A 1980 DHEC legal opinion issued to the Board concerning a recipient requesting to practice in a non-rural location stated, in part:

> The Department is granted discretion only insofar as determining whether justifiable cause exists for such failure (to practice in a non-approved area) in which case the recipient will be required to pay only the face amount of the scholarship, plus interest. [Emphasis Added]
>
> A review of the past cases indicated that the Board has allowed no variances from the requirements set forth in the legislation.

By allowing recipients to serve in areas where doctors are not critically needed, the Board impedes the program objective of placing doctors in underserved areas. The health care of residents residing in rural locations is not adequately served by the agency responsible for protecting public health. Further, scholarships valued at over $100,000 were lost to other students who may have practiced where needed.

Scholarship recipients have been allowed to serve in urban areas to fulfill their contractual obligations because the Board exercised power not authorized by law. The Board

allowed recipients to request variances to serve non-designated locations to fulfill requirements of serving rural locations.

Priority System for Placement of Physicians Needed

DHEC does not have a system to place medical scholarship recipients where they are most needed. Factors such as high rates of infant mortality and cardiac disease, and communities with no physicians' services, are not given priority when establishing areas designated as needy of a physician. The only factor considered when establishing service areas is the doctor/population ratio. Any community with less than one doctor per 2,000 residents is eligible for a placement by DHEC.

Some areas which have been designated as medically underserved include Folly Beach, Garden City and Surfside. These locations did have some medical coverage when designated by DHEC. Another community with 11 physicians has been designated due to the low doctor/population ratio. However, locations experiencing public health problems or the 20 communities in South Carolina with no physicians have not been given priority for placements.

The National Health Service Corps, a federal program, provides funding to medical students who agree to practice in underserved areas. The federal government uses a formula to determine locations most in need of medical coverage.

By not establishing priority locations for placements, communities most in need of medical coverage continue to suffer. A priority system would help DHEC address rural medical problems through the scholarship program.

Repayment of Scholarships

DHEC allows physicians, who default on their scholarship contracts, to repay funds over long periods of time. This requires agency personnel to spend time monitoring and administering repayment schedules. As of May 1985, 12 recipients had signed promissory notes to repay scholarship funds for periods up to 20 years. Each month, agency officials must monitor payments of over $4,700.

There is no agency policy concerning repayment of funds for defaulting on contracts to practice in needy areas. DHEC determines interest rates and length of obligation on a case-by-case basis. One doctor who defaulted in 1984 was allowed to repay $111,000 at 7% interest for 15 years. Another recipient who defaulted in 1984 is repaying over $39,000 with interest at $50 a month. At this rate, the loan will take over 100 years to repay.

The federal government requires prompt repayment of scholarship funds when physicians default. Repayment of funds plus penalties must be made within one year of defaulting.

Requiring immediate repayment when physicians default on contracts may discourage defaulting. More physicians may

fulfill their contract to practice in areas of need if not doing so would mean they may require a bank loan for immediate repayment. Further, administrative work conducted by DHEC's legal, finance and rural health offices to monitor repayments could be reduced.

RECOMMENDATIONS

THE DHEC BOARD SHOULD DISCONTINUE THE PRACTICE OF GRANTING APPROVAL FOR DOCTORS TO SERVE IN AREAS NOT CRITICALLY IN NEED OF DOCTORS WITHOUT REPAYING THE SCHOLARSHIP FUNDS.

DHEC MANAGEMENT SHOULD IMPLEMENT A SYSTEM TO PLACE IN PRIORITY ORDER RURAL LOCATIONS MOST IN NEED OF PHYSICIANS. THESE AREAS SHOULD BE CONSIDERED FIRST WHEN PLACING PHYSICIANS TO SERVE THEIR OBLIGATION TO PRACTICE IN A RURAL AREA.

THE DHEC BOARD SHOULD ESTABLISH POLICY CONCERNING REPAYMENT OF AGENCY SCHOLARSHIPS BY RECIPIENTS WHO DEFAULT ON THEIR OBLIGATION TO SERVE A RURAL AREA. THIS POLICY SHOULD INCLUDE IMMEDIATE REPAYMENT OF SCHOLARSHIP FUNDS.

Emergency Medical Services

The Emergency Medical Services (EMS) program is responsible for certifying that emergency medical technicians (EMTs) possess minimum skills necessary to deliver emergency first aid. The division is responsible for ensuring ambulances contain specified minimum equipment. Further, the program investigates complaints against registrants and disciplines technicians violating program standards. The following problems were found.

Inconsistent Sanctions Imposed

The EMS program has imposed inconsistent sanctions against EMTs in cases of justified (or "founded") complaints. Of 21 complaints filed since 1983, 11 were considered by DHEC to be founded. The most serious sanction imposed by EMS was to place licensees on probation; probation was assigned in four of the 11 cases. The serious difference in the way the EMTs were handled, illustrated by the examples below, shows the need for disciplinary guidelines.

In 1983, two EMTs took two accident victims to a regional hospital. The emergency room (ER) nurse filed a complaint with DHEC EMS stating:

> ...both patients were multi-system injured trauma patients...Mrs. _____ was seriously in need of advanced life support and received none...She was in shock...the hospital was never notified

> that the patients were being brought in...She was taken for surgery but died.

The supervising nurse on duty stated that the (EMS) squad "seemed to have no conception that (their) patient was critically injured." The patient was never given oxygen, only one set of incomplete vital signs was taken, and no neurological checks were made. The ER physician stated:

> ...a more rapid transport with the administration of oxygen and notification to the ER of a critical patient might have bought a little more time for the patient.

DHEC's EMS division reprimanded the EMTs and directed them to attend a training session on patient assessment.

In another case, an elderly male who was "highly intoxicated and abusive" was brought into a metropolitan hospital's emergency room, escorted by city police officers. While police officers, nurses, EMTs and hospital security were attempting to restrain him, he attempted to bite one female EMT, who reacted by slapping him. A complaint was filed against the EMT for slapping the patient. EMS investigated the complaint, reprimanded the EMT and placed her "certification at all levels on <u>probation</u> for a year." [Emphasis Added]

State Regulation 61-7 states:

> ...misconduct which constitutes grounds for a revocation, suspension or other restriction of a certificate, shall be a satisfactory showing...that the holder of a certificate has, by action or omission <u>and without mitigating circumstance</u>, contributed to or furthered the injury or illness of a

patient under his care.
[Emphasis Added]

The inconsistent sanctions applied in these two cases are due partially to the lack of equitable standards and guidelines for disciplinary action. In the former case, no mitigating circumstances were identified to justify the lack of emergency care provided. In the latter case, mitigating circumstances were identified; yet, the EMT's license was put on a probationary status for a year.

The effect of disparate sanctions is a lack of equity and fairness to all EMTs. Also, lack of enforcement of emergency medical service standards and/or regulations could endanger patient care.

Policies and Procedures Needed

EMS has investigated and resolved 21 complaints since 1983, without formal policies and procedures. EMS instituted a "sample investigative file" in January 1985, designed to address inconsistencies in file documentation. However, the adoption of policies and procedures would ensure routine steps are taken in the investigation of complaints.

For example, one page of the sample investigative file states: "This section should contain all interviews or statements...All statements must be signed and dated with a witness." However, specific standards are not set for whom should be interviewed, other than the provision of one sample investigation. In the case of the accident described

on page 135, the victim's daughter was not interviewed nor contacted by EMS, although she was the only non-EMS witness to the accident and subsequent emergency procedures. She was not apprised of the investigation, nor that anyone had questioned the care her mother had received. EMS closed the investigation without establishing cause of her mother's death and, therefore, without clear determination of the strength of the complaint against the two EMTs.

Of the 21 complaints against EMTs and/or services since 1983, 11 alleged negligent or poor patient care; four of the 11 involved patients who died. Four of the 21 complaints alleged failure to transport, or delay in transport of, patients in need of emergency treatment. The serious nature of these complaints necessitates routine policies and procedures and complete documentation in the investigation and resolution of these cases.

RECOMMENDATIONS

THE EMERGENCY MEDICAL SERVICES PROGRAM SHOULD DEVELOP GUIDELINES FOR SANCTIONS AGAINST EMERGENCY MEDICAL TECHNICIANS, IN THE CASE OF FOUNDED COMPLAINTS. THE HANDLING BY EMERGENCY MEDICAL SERVICES OF COMPLAINTS WHICH ALLEGE SERIOUSLY NEGLIGENT PATIENT CARE, TREATMENT OR STANDARDS SHOULD BE REVIEWED BY DHEC

LEGAL AFFAIRS, BY INTERNAL AUDIT OR BY THE DHEC BOARD.

EMERGENCY MEDICAL SERVICES SHOULD ESTABLISH POLICIES AND PROCEDURES FOR COMPLAINT HANDLING.

CHAPTER V

ADMINISTRATION

The Department of Health and Environmental Control's Administrative Division is responsible for budgets, contracts, data processing, finance, personnel and general agency administration.

Improved Budget Process

DHEC has implemented a budget process designed to ensure that the State's most critical health needs are funded. In FY 79-80, the agency developed a priority system which ranks all program areas by importance. The process provides for input from program managers at the county and district levels, as well as at the State Office level. With input at all levels and the priority ranking system, the Department has a consistent budget methodology with which to justify annual budget increases or to implement decreases.

Officials responsible for analyzing budget requests for State agencies have stated that DHEC's process is planned more efficiently and is more consistent from year to year, than others. Less consistent agencies change their requests several times during the process and do not maintain a consistent set of priorities.

The priority system objectively ranks each program according to a set of ten criteria. Scored highest are programs which have severe public health consequences as

opposed to those which are not as severe or affect fewer people. Preventive programs are scored higher than treatment-oriented programs since it is more cost-effective to avoid a health problem than to treat it. The priority ranking system is also used for implementing budget decreases when necessary, cutting low priority programs first.

DHEC officials indicated that funding may not be adequate to continue all the Department's activities at current levels. The priority ranking system will ensure that scarce resources fund top priorities in public health.

DHEC's Minority Business Enterprise Program Exemplary

The Department of Health and Environmental Control has "served as a model" for other State agencies in minority business procurement according to an official with the South Carolina Office of Small and Minority Business Assistance. In FY 84-85, DHEC reported over $920,000 in expenditures to minority firms, which represented a 19% increase over FY 83-84 in expenditures to minority firms.

A study of minority business participation conducted by the National Institute of Governmental Purchasing found that minority businesses obtained approximately 1% of state and local government expenditures in 1982. According to the FY 83-84 Annual Report of the South Carolina Office of Small and Minority Business, less than 1% of the total State

procurement since 1981 has been awarded to minority companies.

DHEC's major accomplishment in minority business is due to a concerted effort in the Bureau of Business Management to utilize minority firms, and to commitment to the program by top management and the DHEC Board. The Office of Small and Minority Business also cited DHEC's accepted plan, good procedures, professionally written reports and timeliness, in the Minority Business Enterprise Program.

User Fees

DHEC does not charge all industries and businesses it regulates a fee to help pay inspection and regulatory costs. Not all programs should implement a user fee schedule. However, agency records indicate that up to $4 million could be collected by charging wastewater treatment plants, public swimming pool owners, and some other organizations regulated by DHEC an inspection or permit fee.

In a 1982 letter to agency directors, the Governor stated that:

> The functions performed by licensing agencies should be fully self-supporting by the businesses and professions they monitor. Regulatory agencies should reevaluate their fees and fine structure to increase their self-sufficiency as much as possible...

Sections 44-1-180 and 44-1-190 of the South Carolina Code of Laws authorize DHEC to charge fees for various health services. Several programs in DHEC charge fees. For

example, DHEC charges hospitals and nursing homes an annual licensing fee. Controlled substance licensees are charged a fee by DHEC to pay audit and inspection costs. Other states, including Florida, Tennessee and Alabama, charge some industries fees to help cover inspection and regulatory costs.

By charging a fee to pay regulatory costs, users of the regulated service, instead of the taxpayers, will pay a greater cost for the State's regulatory programs. Funds saved by imposing a user fee could revert to the General Fund or be used for other programs.

In FY 83-84, regulations allowing DHEC to charge user fees were proposed by DHEC but were not passed by the General Assembly. The agency plans to propose another user fee schedule to the Budget and Control Board in September 1985.

RECOMMENDATION

DHEC MANAGEMENT SHOULD CONTINUE TAKING STEPS TO CHARGE FEES TO HELP COVER THE COST OF INSPECTION AND REGULATORY PROGRAMS.

Lawyer/Legislators Practicing Before DHEC

The practice of lawyers who are legislators representing clients in administrative hearings against DHEC

and other State boards and commissions needs clarification. The practice of representing clients who are appealing agency decisions brings into question whether the legislator can serve, as elected, the best interests of the State. Further, State law may prohibit this practice.

- For example, in 1984, after continued pollution violations by a sewerage plant, DHEC fined the owner $10,000. Although the owner admitted to the violations, he hired a lawyer/legislator to appeal the fine. Against staff recommendations, the Board reduced the fine to $1,000.

- In a 1982 case, DHEC staff recommended fining one company $7,500 for chemical spills and other pollution violations. A lawyer/legislator represented the company, and no fines were imposed. Two years later, this company was again found to be violating State pollution control laws, and DHEC recommended fines of $17,500. As of July 1985, no action has been taken.

The disposition of these and other cases examined may have been the same if other counsel had represented the clients against DHEC. However, when lawyer/legislators represent clients challenging State regulations, the State's concerns may not be placed first.

South Carolina law may prohibit lawyer/legislators from practicing before State boards, commissions and agencies. Section 8-13-500 of the South Carolina Code of Laws states, in part:

> It shall be a breach of ethical standards for a business, in which a public employee or public official has a financial interest, knowingly to act as a principal or as an agent for anyone other than the State...with any contract, claim or controversy, or any judicial proceeding in which the public employee or public official either participates personally and substantially through decision,

> approval, disapproval, recommendation, the rendering of advice... where the State or governmental entity is a party or has a direct and substantial interest. [Emphasis Added]

Other states have disallowed the practice of lawyer/legislators representing clients before state agencies. Georgia's Supreme Court ruled in 1982 that lawyer/legislators are trustees of the people and as such cannot represent clients in civil cases before state agencies. Mississippi's State Bar advised that a lawyer/legislator and every member of the firm:

> ...must refrain from representing the State Legislature or its committees or from representing anyone before or against the Legislature or its committees.

Title 18, Section 205 of the United States Code of Laws prohibits federal attorneys or congressmen from representing clients against the federal government. Violations can result in fines of up to $10,000 and two years in prison.

When lawyer/legislators represent clients against State entities, the best interests of the State may not be served. Further, agency officials may be placed in an unfair position, if they rule against the legislator's client, when legislation, budget matters and board appointments are being considered by the General Assembly.

RECOMMENDATION

THE GENERAL ASSEMBLY SHOULD CLARIFY WHETHER LAWYER/LEGISLATORS'

REPRESENTATION OF CLIENTS IN STATE AGENCY ADMINISTRATIVE PROCEEDINGS IS A VIOLATION OF STATE LAW.

Control of District Drug Purchases Needed

The Department of Health and Environmental Control does not monitor the health districts' purchase of drugs and drug supplies. As a result, districts are maintaining an excess supply of drugs not used before their expiration date. At least $150,000 worth of expired drugs was found by DHEC officials between July 1981 and June 1984. Because adequate records are not maintained on all expired drugs, it was not possible to determine the total value of expired drugs in districts. Further, the amount of drugs returned for credit or refund could not be determined. According to one agency official, as much as $100,000 worth of drugs may be expiring in districts each year.

For example, the agency's pharmacy supervisor found approximately $5,000 worth of expired drugs in the basement of one county health department. Approximately six years old, these drugs were too old to be returned to the manufacturer for credit. Other counties have been notified that their drug inventories are larger than necessary.

Control over inventory and purchasing is a management function necessary to control program costs. For example, the purchase and inventory level of laboratory supplies at DHEC are controlled by the State Office. Purchase of lab

supplies can be denied if an adequate stock level is already available.

Maintaining an excess stock of drugs results in an unnecessary overcommitment of Department resources. With adequate controls, drug budgets could be reduced by stocking only enough supplies to meet the district needs. Program funds are wasted when expired drugs cannot be returned for credit. Further, administrative work necessary for tracking and returning drugs to the manufacturer could be reduced.

Excess drug stocks are maintained because the agency has no system to monitor and control inventory levels and purchases. Each district is responsible for determining its inventory needs. The State Office does not exercise its authority to disallow a purchase even if it is known the district has an excess supply available. However, Department officials have recognized the problem and are reviewing the possibility of maintaining a central warehouse of drugs to supply the districts as needed. This system would monitor usage and inventory levels of health districts.

RECOMMENDATION

DHEC'S ADMINISTRATIVE DIVISION SHOULD IMPLEMENT A SYSTEM TO CONTROL DISTRICT PURCHASES AND INVENTORIES OF DRUGS AND DRUG SUPPLIES. THIS SYSTEM SHOULD MONITOR USAGE BY DISTRICTS AND ALLOW

ONLY FOR AN ADEQUATE AMOUNT TO BE KEPT IN STOCK. ALL OUTDATED DRUGS SHOULD BE RETURNED TO THE MANUFACTURER THROUGH THE STATE OFFICE.

Bureau of Data Systems Management

The Bureau of Data Systems Management is responsible for controlling and coordinating the Department's data processing systems. The following problems were noted in data processing purchases and planning for systems development.

Contract to Purchase Word Processing Equipment

In 1982, DHEC contracted to purchase word processing equipment over a four-year period at a cost of $722,000. As of June 1985, DHEC was still obligated to purchase approximately $150,000 of equipment on this contract. However, the contracted equipment no longer meets the agency's needs and does not meet current State requirements for compatibility, according to DHEC officials.

In addition, an office management system purchased under this contract has been discontinued. As a result, an investment of approximately $60,000 in equipment, software, and staff time has either been lost or unused since January 1985.

Officials of the State Division of Information Resource Management stated that because technology changes so

rapidly, agencies generally only commit to purchases which meet immediate needs. An option, and not a commitment, is usually negotiated, allowing the agency an option to purchase additional units at the contracted price.

DHEC officials have explained that they did not intend to enter into a long-term contract. However, the contract was signed before it was realized that the terms represented a commitment to purchase and not an option. DHEC officials further stated the office management system purchased under this contract has been discontinued because of lack of use and interest by agency personnel.

Purchase of Software

Data Systems Management (DSM) purchased 110 copies of computer software in June 1984. Seven of the 110 copies had been assigned by July 1, 1985, but have received little use according to DSM officials. The software was purchased under the assumption that a request for a new mainframe computer would be approved. Because the request has not been approved, the $60,000 software may be wasted.

The State Division of Information Resource Management stated that DHEC's request for a new computer (or use of General Services' computer) may not be granted until 1986. By the time the new computer is purchased or access to another computer is granted, better and more economical alternatives could be available.

Computerization of Lab Testing

DHEC's computerized system for reporting laboratory test results was not adequately planned. DSM personnel began computerizing the results of laboratory tests without understanding the specific project requirements. Also, no budget or formal timelines for this project were developed, nor were experienced consultants used in project development. Computerizing the 12 lab sections (testing areas) was originally projected to take approximately three years. As of June 1985, which was the original projected deadline, 1.5 of 12 lab sections had been completed, at a cost of approximately $430,000.

The laboratory test results project was begun in June 1982 to enable users to log and report patient and test information more efficiently. Computerizing test results and billing information from the 12 laboratory sections would eliminate a large amount of paperwork for lab technicians. This would enable lab results to be recorded and reported much faster.

State Division of Information and Resource Management officials stated that proper planning for systems development should include a description of the work to be performed, and associated costs and target dates. The user should approve the planning document prior to the beginning of the project, and any modifications in time and/or costs throughout the project.

DHEC officials stated they did not formally document the project's work requirements because the project was so unique. Although a "unique" project, the agency did not consult with an outside consultant or Information Resource Management, the agency responsible for assisting in computer project planning.

Without an adequate system of cost and time budgeting for the project, DSM cannot ensure that the project will be completed in a cost-effective manner. By not specifying work requirements, neither DSM nor laboratory personnel knew what needed to be done. Because DSM and laboratory officials had not specified work requirements, DSM officials stated that approximately 25% of the completed work had to be rewritten or extensively modified on two occasions.

The project, originally scheduled to be completed in June 1985, is now scheduled to last through FY 87-88 and will cost at least an additional $275,000. This additional cost does not include outside contracting to complete one lab section.

RECOMMENDATIONS

DHEC SHOULD AVOID COMMITTING STATE FUNDS FOR EQUIPMENT WHICH MAY NOT BE NEEDED.

DHEC SHOULD NOT PURCHASE SOFTWARE BEFORE AUTHORIZATION IS GIVEN TO PURCHASE THE EQUIPMENT NECESSARY TO SUPPORT IT.

DATA SYSTEMS MANAGEMENT AND LABORATORY PERSONNEL SHOULD RE-EVALUATE THE LAB TESTING PROJECT AND CONSULT WITH THE STATE DIVISION OF INFORMATION RESOURCE MANAGEMENT TO DETERMINE IF THE PROJECT IS BEING PERFORMED IN THE MOST COST-EFFECTIVE MANNER.

Productivity Standards

The Council's review of certain programs administered by DHEC indicated a need to develop productivity standards for employees. The following indicates the work output discrepancies in three programs examined by the Council.

- In 1984, work output by investigators in the Sexually Transmitted Disease (STD) program varied from 3.5 units per person per day in one district to 0.7 units in another district, a 500% difference. Work units consist of the number of investigations made, based on the length of time an investigation takes and the STD priority system.

- Emergency Medical Services inspectors inspect ambulances and investigate complaints and other activities. Standards outlining expected work output have not been implemented, and the division does not maintain a record-keeping system for inspections and investigations conducted per worker.

- In FY 83-84, work output for Environmental Sanitation workers varied from 3.37 activities per person per day in one district to 5.23 in another district, or a 53% difference. Field activities consist of restaurant inspections, mobile home park inspections, septic tank approvals and other work.

With productivity standards, employees know the level of work considered acceptable. Standards can be used by management to monitor output of employees and compare work

differences among districts. As an example, DHEC's Home Health program requires nurses to make four to five visits per day, depending on the type of visit.

Without productivity standards, DHEC cannot adequately ensure employees produce a minimal amount of work. For example, one district's personnel in the STD program investigated an average of 60 syphilis cases per investigator, and also followed up on 507 (70%) of the uncomplicated gonorrhea cases. However, in a second district, an average of 25 syphilis cases were investigated per investigator, and 172 (27%) of the uncomplicated gonorrhea cases were followed up. Without standards, program officials do not have an adequate basis for determining how to allocate resources to meet agency needs.

DHEC officials stated several reasons why productivity standards have not been developed. First, standards tend to emphasize quantity instead of quality of work. Second, certain types of work will fluctuate during the year. Additionally, the agency's "management by objectives" system requires a certain amount of work by program, instead of by person.

RECOMMENDATION

DHEC MANAGEMENT SHOULD CONSIDER FORMULATING PROGRAM PRODUCTIVITY

STANDARDS BASED ON THE NUMBER OF ACTIVITIES THAT CAN BE EFFECTIVELY PERFORMED BY INDIVIDUAL EMPLOYEES.

DHEC Employee Survey

The Audit Council surveyed DHEC employees in the fall of 1984 to gauge job satisfaction and to identify noteworthy areas and/or problems in the agency's operations. Twenty-five percent of DHEC's 3,550 employees were selected randomly to receive surveys. Of the 887 employees surveyed, 513 (58%) returned surveys to the Audit Council. Of 436 respondents who identified the location of their work, 324 (74%) worked in one of the 15 health districts or 12 EQC districts; 112 (26%) worked in the State Office.

The survey instrument and responses to each question are presented as Appendix B of this report. The following paragraphs highlight survey results.

Job Satisfaction

Most respondents (94%) "like and enjoy" their work at DHEC, 91% feel connected with a successful office which renders good service, and 89% believe that they work with well-qualified associates.

Client Protection and Public Health

Seven questions surveyed employees regarding the quality of client or patient care delivered by their work

unit, and management response to incidents involving either public or client safety. Over 90% of those survey respondents who work with clients believe clients are cared for in accordance with DHEC policy, and that the policies are sound; 89% believe that decision-making in their work unit is based on clients' needs. Most respondents (80%-95%) have confidence in DHEC's handling of incident reports which involve either client or public health and safety.

Evaluation, Merit and Promotion

Both the multiple-choice questions regarding promotion and merit on the survey and some responses to open-ended questions indicate that the agency may need to review evaluation and promotion practices.

Sixty percent of the survey respondents.were not satisfied with their chances to be promoted to a better position in the future. Fifty percent of the survey respondents did not agree that the promotion practices of the department emphasized merit.

Twenty-four employees responded to the open-ended questions with a concern about the merit and evaluation system, and/or the opportunities for promotion. Typical of these comments are the following:

- The absence of true merit increases takes away incentive for doing above average work.
- (There is an) absence of motivational factors...no merit raises...poor advancement opportunities.
- No matter how hard an individual works, his reward is the same...

Regarding promotion opportunities, Bureau of Personnel Services officials stated the agency experiences a relatively low yearly turnover rate (5%-10%); however, when vacancies do occur, the Department's policy is to encourage promotion from within.

Very few employees qualify for merit raises because funds are not available, according to Department officials. Supervisors should, however, define for employees how they can exceed their performance requirements, thereby qualifying for merit consideration. Bureau of Personnel Services officials indicated that they review all DHEC evaluations and make suggestions for improvement; officials stated by identifying strengths and weaknesses in the comments section, employees are given something towards which to work.

Facilities

Over half (52%) of the survey respondents indicated that lack of adequate facilities and equipment impeded efficient and effective operations of the Department. In addition, 56 respondents added comments to their surveys on this subject.

According to an agency official, overcrowded health facilities are operated in every county, and approximately a third of the facilities are in dilapidated condition. Most county health departments were built with federal Hill-Burton funds over a 30-year period, which ended

approximately 15 years ago. The central administrative offices are also overcrowded, according to an official in the Bureau of Business Management. Appendix C includes a table summarizing the most critical areas of need for additional space and/or renovation, and reports the current status of each district's endeavors to alleviate these problems.

The Department's Statewide Five-Year Permanent Construction Plan will be completed by June 1986. DHEC officials will appear before the Joint Bond Review Committee in late 1986 or early 1987 on behalf of those counties for which local authorities are unable to provide improvements or additional space.

Engineering Requirement for Management Positions

In the DHEC employee survey, 13 (22%) of 59 EQC respondents questioned the need for professional engineer registration for certain management positions in the Environmental Quality Control (EQC) division. EQC requires a professional engineer registration in 31 (36%) of 86 management positions. Table 9 shows the distribution of engineer/management positions by each EQC Bureau.

TABLE 9

NUMBER OF EQC MANAGEMENT POSITIONS REQUIRING PROFESSIONAL ENGINEER REGISTRATION

Bureau	Number of Management Positions Total	Number of Management Positions Requiring Registration
Administration	4	2
Air Quality	6	2
Laboratories	12	0
Solid & Hazardous Wastes	11	5
Water Pollution Control	17	7
Water Supply	12	3
District Services	13	12
Radiological Health	11	0
TOTAL	86	31

Source: EQC Division of Programs Management.

A DHEC Personnel official stated EQC has justified those management positions as requiring engineers. He added, however, that for DHEC to be certain that the requirement is appropriate in each case, DHEC would have to conduct a "task study" to see how each manager's time is spent.

If some management positions require professional engineer registration unnecessarily, employees with degrees in chemistry, biology and other environmental areas are unfairly excluded from consideration for these positions.

RECOMMENDATION

DHEC SHOULD CONDUCT A TASK STUDY TO DETERMINE IF PROFESSIONAL ENGINEER

REGISTRATION IS NECESSARY FOR 31 OF 86 MANAGEMENT POSITIONS.

Veteran's Administration Agreement Needed

An administrative agreement, which would provide for the adequate transmittal of Veteran's Administration (VA) records in tuberculosis (TB) cases has not been negotiated by DHEC and the VA. DHEC cannot obtain VA information if the patient does not sign a consent form. DHEC received notification of approximately 80 TB diagnoses during 1983 and 1984 from VA hospitals. In eight (10%) of those cases, DHEC could neither obtain all of the information necessary to successfully evaluate TB diagnosis and treatment nor adequately follow-up on the patients' contacts who may have contracted tuberculosis.

Sections 44-31-10 and 44-31-30 of the South Carolina Code of Laws provide DHEC with the authority to inspect the medical records of institutions which treat TB patients, and require physicians to report to DHEC any case of tuberculosis within 24 hours.

According to DHEC records, a potential health menace is created when information regarding a TB patient is not provided to DHEC in a prompt and reliable manner. It is necessary that DHEC follow up quickly on a TB patient's contacts to prevent the spread of the disease. For example, in one case, a TB patient, who was a public school teacher being treated by the VA, died and DHEC did not receive

notification of his tuberculosis until after his death. This individual had been in close contact with people and the delay in alerting DHEC of his condition could have put them at risk of contracting TB.

Veteran's Administration officials stated that federal patient confidentiality laws restrict the release of patient information. However, it is possible that the law would permit the VA to release this information on a continuing basis to DHEC.

DHEC is not able to obtain medical records on TB patients from the VA unless the patient has signed a consent form. DHEC and the VA attempted to resolve this problem in 1983 but no agreement was reached.

RECOMMENDATION

DHEC AND THE VETERAN'S ADMINISTRATION SHOULD NEGOTIATE A MEMORANDUM OF AGREEMENT TO ALLOW THE DEPARTMENT ACCESS TO TUBERCULOSIS PATIENT INFORMATION WHEN A CONSENT FORM HAS NOT BEEN SIGNED.

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APPENDIX B

LEGISLATIVE AUDIT COUNCIL

STATE OF SOUTH CAROLINA

620 BANKERS TRUST TOWER
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE:
803-758-5322

August 29, 1984

Dear DHEC Employee:

At the request of the South Carolina General Assembly, the Legislative Audit Council is conducting an audit of the Department of Health and Environmental Control (DHEC).

To help us conduct this review, we are asking a sample of DHEC employees to participate in this survey. The sample was randomly drawn by computer, and includes 25% of DHEC employees. If you know other DHEC employees who were not included in the survey, and would like input to our review, please have them contact us. All communications to us, by survey, telephone or otherwise, will be held in strict confidence.

Enclosed is a questionnaire about DHEC's policies and operations, and about your job satisfaction. We would appreciate your honest and thoughtful answers. It is not necessary that you identify your name, but we do ask that you list your work location (question #28).

Please return the completed questionnaire to the Audit Council by September 17, 1984, in the enclosed, postage paid envelope. If you have any questions, please call Dr. Marilyn Edelhoch or Mr. Tom Bardin at 758-5322. Thank you for your help.

Sincerely,

George L. Schroeder
Director

/sp

APPENDIX B (CONTINUED)

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

EMPLOYEE SURVEY RESULTS

(n = 513)[1]

Please respond to each statement by showing how much you personally agree or disagree with it, using the following codes and circling only one for each statement:

1 - Definitely Agree
2 - Inclined to Agree
3 - Inclined to Disagree
4 - Definitely Disagree

% Responding						
1	2	3	4	N/R		
58.7	35.3	4.1	1.0	1.0	1.	I like and enjoy my work here.
43.9	36.1	13.8	5.5	0.8	2.	My supervisor does all he/she should to ensure getting good work (e.g., checks on assigned work, reviews performance, measures accomplishments against established goals, etc.)
46.8	35.7	11.9	5.1	0.6	3.	My supervisor gives proper credit for those suggestions and ideas submitted to him/her.
8.2	18.3	30.6	42.1	0.8	4.	I cannot tell if my work is satisfactory to my supervisor.
14.2	25.9	24.8	34.1	1.0	5.	I am satisfied with my chances to be promoted to a better position in the future.
26.9	40.0	18.7	14.0	0.4	6.	The work in this office provides me with opportunity to grow professionally.
37.8	37.4	16.6	8.0	0.2	7.	The policies and organizational structure of this office have been clearly set forth and explained.
53.2	37.4	7.4	1.8	0.2	8.	I feel connected with a successful office which renders good services.
39.6	39.2	16.6	4.1	0.6	9.	There has been sufficient effort devoted to reviewing and evaluating my performance in terms of specific objectives established for my job.
51.1	38.2	7.2	2.7	0.8	10.	My job involves working with well-qualified associates.
15.4	32.6	26.9	23.0	2.1	11.	The promotion practices of the Department emphasize merit.
20.9	29.2	27.1	21.6	1.2	12.	There is a need for improvement in the teamwork of staff in this office.
38.6	48.0	10.3	2.1	1.0	13.	Unexpected situations and emergencies are (or would be) handled in an effective manner in this office.
67.6	26.7	3.3	2.1	0.2	14.	I am not (or would not be) afraid to report incidents involving client and/or public health and safety.
44.6	43.1	9.7	2.1	0.4	15.	I am confident that when incidents involving client and/or public health and safety are reported, fair and appropriate action will be taken to resolve the matter.
37.0	43.1	16.4	2.9	0.6	16.	Investigations of the above matters are (or would be) handled consistently.

[1]Twenty-five percent of DHEC employees were surveyed. Of 887 surveys sent out by the Audit Council, 513 DHEC employees responded.

Please respond to questions 23-26 if your job unit works directly with patients or clients. If not, skip to question 27.

1 - Definitely Agree
2 - Inclined to Agree
3 - Inclined to Disagree
4 - Definitely Disagree

% Responding					
1	2	3	4	N/R	
					17. The following hurt the efficient and effective operations of the Department:
27.9	27.5	23.0	18.7	2.9	A. Lack of coordination and communication with other units, supervisors, and districts.
13.8	14.8	35.9	31.3	4.1	B. Lack of skills and training.
32.7	27.5	21.2	15.0	3.5	C. Lack of sufficient staff.
29.2	21.2	26.5	19.7	3.3	D. Lack of adequate facilities and equipment.
12.1	1.6	1.8	1.9	82.7	E. Other _____
28.5	51.7	17.3	2.3	0.2	18. The work in my department has been structured into an effective and efficient pattern.
29.8	40.5	20.7	7.4	1.6	19. I think higher management backs up the decisions of my supervisor.
					20. What factors help you to get your job done as you think it should be done? Is there anything you have been able to do that you consider outstanding or innovative?
					21. What problems or obstacles keep you from doing your job as effectively as you would like?
					22. Which aspects of your job would you like to see changed?
48.9	14.2	0.8	0.8	35.3	23. Clients/patients are cared for in accordance with DHEC directives and policies.
32.6	26.1	3.5	1.6	36.3	24. DHEC goals and policies have a positive effect on client/patient services.
37.2	20.1	5.5	1.9	35.3	25. Decision making in my work unit is based on the needs of clients/patients.
47.6	16.0	1.0	0.4	35.1	26. Appropriate referrals and follow-ups are made for clients/patients, whenever necessary.
0.2(Yes)		90.0(No)		9.9	27. Has anyone from your agency tried to influence your response to this survey?

(These questions were "open-ended"; surveyed employees elected to respond as they wished.)

APPENDIX C

FACILITIES IN MOST CRITICAL NEED OF ADDITIONAL SPACE AND/OR RENOVATION (BY DISTRICT)

SEPTEMBER 1985

DISTRICT	FACILITY/ COUNTY	MAJOR PROBLEM(S)	CURRENT STATUS
App. I	Anderson	a,b	*
	Oconee	a	2(d)
App. II	Greer	a,c	2(a)
	Slater	a,b	2(c),(d)
	Greenville	a	2(d),5(d)
App. III	Cherokee	a,b	4
	Union	a,b	4
Catawba	Great Falls	a,e	3
	Rock Hill	a	3, 5(b),(d)
	Lancaster	a	5(a),(d)
E. Midlands	HardenStAnnex	a,b	1,5(a)
	Gregg St. Off.	a,b	1,5(a)
Low Country	Beaufort	a	1
	Colleton	b	4
	Hampton	b	4
	Estill	b	4
Lower Sav. I	Wagener	a,c	2(d)
	Barnwell	a,d	4
Lower Sav. II	St. Matthews	a,c	4
Pee Dee I	Florence	a	2(c)
	Dillon	a	2(b)
Pee Dee II	**	a	1
Trident	Charleston	a,c	4
	Summerville	a,b	1
	Monck's Corner	d	4
	St. George	a	4
	Goose Creek	a,d	5(a)
	James Island	c	4
	Mt. Pleasant	c	2(a)
Upper Sav.	Abbeville	1	1,2(a)
Waccamaw	Kingstree	a	2(d)
	Myrtle Beach	2(d)	4
Wateree	Lee County	a,b,c	4
	Sumter	a	5(a)
W. Midlands	W. Columbia	a	2(d)
	Newberry	a,b	5(b)

* County replaced roof of this facility, Summer 1985

**Includes Chesterfield, Darlington, Hartsville, Cheraw, Pageland and Bennettsville

KEY

MAJOR PROBLEM(S)

a) overcrowded
b) in poor condition; &/or needs repair
c) trailer(s) in poor condition
d) unsuited to clinical or current use
e) inadequate clinical space

CURRENT STATUS

1) problem under study
2) under negotiation for a)new building, b)leasing, c)renovation, d)county provision of space
3) county attempting to raise funds
4) no county funds available
5) new space (has been, will be) added through a)new building, b)leasing, c)renovation d)county provision of space

Source: Legislative Audit Council, based on information provided by the DHEC Division of Business Management, September 1985.

APPENDIX D

GLOSSARY

Administrative Order - a directive issue by DHEC, specifying the conditions and time within which the violation(s) must be abated, usually including a fine. A Consent Order is an Administrative Order issued with the consent of the violator.

aquifer - a water-bearing layer of permeable rock, sand or gravel.

Certificate of Need - DHEC approval to expand or reduce the type or scope of institutional health services or to undertake any new services.

compliance sampling - the sampling of discharged wastewater by DHEC for analysis and comparison with discharge monitoring reports.

continuous emission monitoring (CEM) - a self-monitoring device which continuously checks the emissions of a smokestack.

discharge monitoring report (DMR) - data gathered through self-monitoring by dischargers. These reports should be sent to DHEC on a quarterly basis.

downgrade - to lower the sanitation score (A, B or C) of a restaurant or other food establishment because of declining sanitation practices.

lawyer/legislator - a member of the General Assembly who is also a practicing attorney.

leachate - liquid resulting from the interaction of rainwater and hazardous wastes in a landfill.

meltdown - the melting of equipment containing radioactive material.

no discharge lagoon (surface impoundment) - a pond containing wastewater, and possibly hazardous materials, that is not permitted by DHEC to discharge into the environment.

Notice of Violation - a letter to a facility regulated by DHEC documenting a violation(s).

operation and maintenance inspection - an inspection performed to determine if a facility is in adequate working condition and if routine maintenance is being performed.

patient recertification - certification by a physician that a patient is in need of care and that the appropriate care is being provided. Patients must be recertified at least every 60 days in the Home Health program.

perinatal - occurring in or around the time of birth.

pick up and sampling procedures - procedures used by milk transporters to pick up milk and sample portions for sanitation and cleanliness.

Show Cause Hearing - a meeting with DHEC officials in which a violator discusses steps taken to correct problems. An administrative order and fine may also be discussed.

State Health Plan - a document prepared annually by DHEC which assesses the health status of the State and projects the need for additional facilities and services.

APPENDIX E

South Carolina Department of Health and Environmental Control

2600 Bull Street
Columbia, S.C. 29201

Commissioner
Robert S. Jackson, M.D.

March 14, 1986

Mr. George L. Schroeder
Director
Legislative Audit Council
620 Bankers Trust Tower
Columbia, South Carolina 29201

Dear Mr. Schroeder:

Attached is a summary response to the 1986 Legislative Audit Council Report on our agency. As the summary response indicates, because of space limitations, a more detailed response is being published separately and will be made available to all concerned parties when completed.

DHEC welcomed this independent review of our programs and operations, and we are gratified at the overall clean "bill of health" your report portrays. At the same time, we have already begun to seriously address any recommendations in your report which this agency can implement.

Sincerely,

Robert S. Jackson, M.D.
Commissioner

RSJ/br

cc: Legislative Audit Council Members

SUMMARY RESPONSE TO 1986 LEGISLATIVE AUDIT COUNCIL REPORT

For more than eighteen months the staff of the Legislative Audit Council examined and reviewed virtually every aspect of the operations of the South Carolina Department of Health and Environmental Control. We are delighted that NO major problem areas were identified. Their investigation confirms that the agency does an excellent job of advocating and providing environmental and health services, managing its administrative and fiscal responsibilities and maintaining a high level of employee satisfaction and support.

The LAC report, however, is lengthy and may give its readers on first glance an impression other than that described above. The areas in which the auditors were critical fall into four distinct groups which we would like to identify and elucidate:

1. The first group are issues which the agency has identified on its own and taken the necessary steps to correct. An example of this is the Medical and Dental Scholarship Program where several pages within the LAC report are spent delineating problems which were corrected by legislative action at our request during the 1985 legislative session.

2. The second group are issues on which the auditors have personal opinions that differ from the policy direction taken by the state. Examples are the auditors' disagreement with the state's acceptance of hazardous waste for disposal and the state's advocacy for and provision of home health care as an alternative to institutional care for elderly and disabled citizens. In both of these areas DHEC implements the policy direction of the state. The agency has provided leadership in thinking through the policy issues, but the decisions are ultimately made by the Legislature. In one sense, then, it is appropriate for the LAC to advise the Legislature of its difference of opinion with state policy. Using the forum of an agency audit to express the auditors' difference of opinion is, however, not appropriate.

3. The third group of LAC comments are those based on inadequate data collected by the auditors or misinterpretations of data analyzed. The agency attempted to correct the misinformation with extensive data in an initial response to the audit report, but in almost every case the LAC rejected any revision of its original statements even when they were shown to be patently incorrect.

4. The final group of issues are relatively minor items in the context of operating an agency with a 177 million dollar budget, more than 60 programs, and nearly 4,000 employees. The format of the LAC report fails, however, to put these

findings in perspective, so that a lay reader would be able to distinguish between a major problem and a relatively insignificant issue. This classification of issues is commonly practiced by other audit agencies such as the State Auditor's Office.

We were offered the privilege, as is standard practice, by the LAC to publish as an attachment to their report a ten page response. We did not feel however that such an abbreviated response to their 150+ page document was fair or adequate.

Therefore, in an attempt to provide a full and thorough analysis of all matters to the Legislature and the public of South Carolina, DHEC has decided to separately publish its own complete response document. This separate response will be distributed to the members of the Legislative Audit Council, the Legislature and the Governor, and selected other individuals. Anyone wishing a copy should request one from the Director of Internal Audit, Office of the Commissioner, South Carolina Department of Health and Environmental Control.